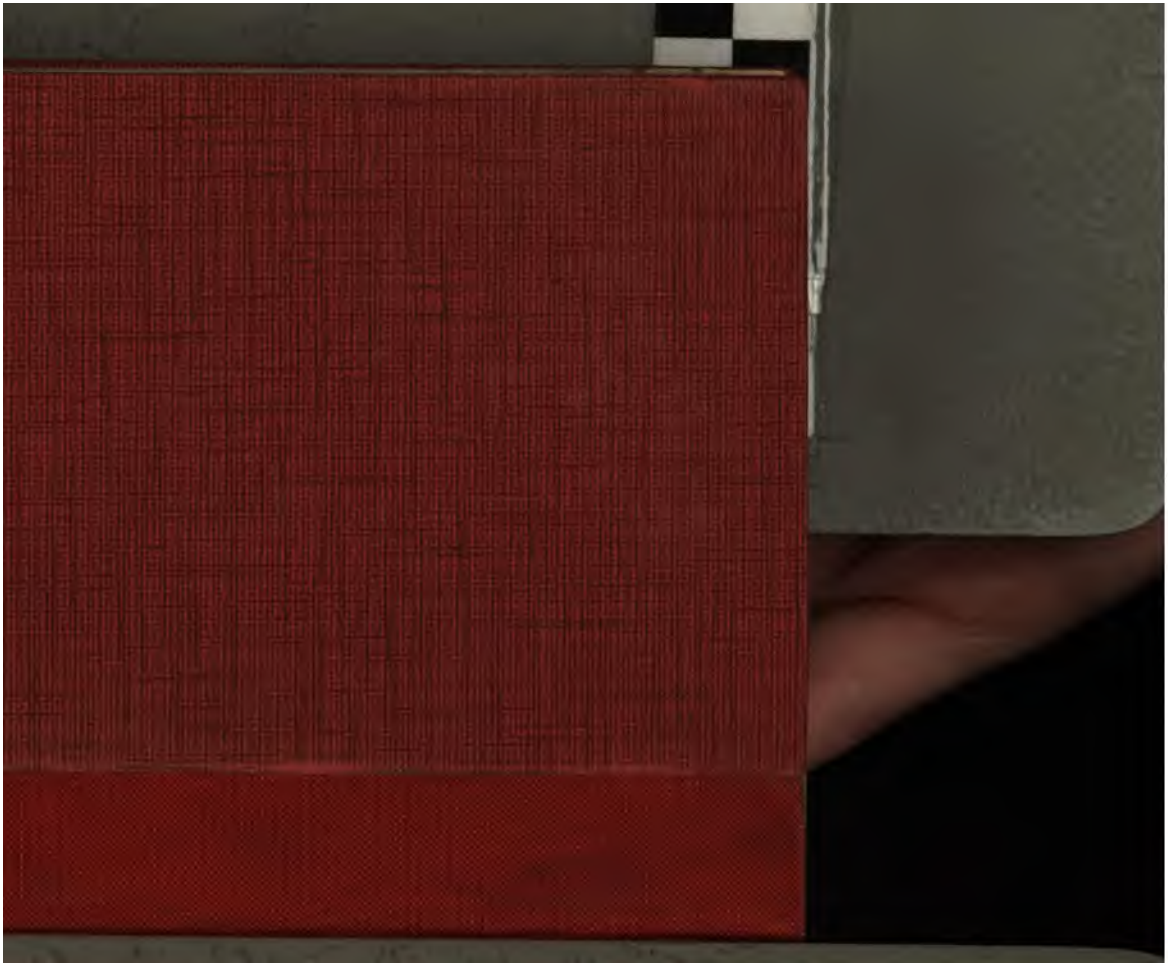

# THE CASE FOR "ESTABLISHMENT" STATED.

BY

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AUTHOR OF "IT'S INCONSISTENT HERE TO REVILE OF THE [illegible]," ETC., ETC.

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PUBLISHED UNDER THE DIRECTION OF THE TRACT COMMITTEE.

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LONDON:

SOCIETY FOR PROMOTING CHRISTIAN KNOWLEDGE,

NORTHUMBERLAND AVENUE, CHARING CROSS, W.C.;

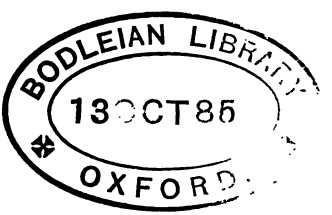
43, QUEEN VICTORIA STREET, E.C.;

26, ST. GEORGE'S PLACE, HYDE PARK CORNER, S.W.

BRIGHTON: 135, NORTH STREET.

NEW YORK: E. & J. B. YOUNG AND CO.

1885.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# PREFACE.

TITLE OF BOOK.—In giving this book the title of "The Case for 'Establishment,'" the author desires to explain, with reference to the word "*Establishment*," that he does not accept that term as accurately descriptive of any formal Act by which the State established the Church, or gave her status or prestige; nor does he accept the word as legally descriptive of any specific statutable basis of the existing relations between Church and State. He simply takes the term "Establishment" as a word in current use which is popularly but loosely and inadequately employed to represent the union between Church and State; and in dealing with it, while protesting against its historical inaccuracy, for the purposes of discussion he falls in with its popular use.

In calling this book "*The Case* for Establishment," the author desires it to be understood that he does not, by the use of that phrase, wish to convey the idea that he pretends to have presented the whole case for Establishment, or that he assumes to be able to do so; indeed, so widely comprehensive and far-reaching are the facts and arguments which go to make up the case for Establishment, and which might justly be alleged in its support, that he regards it as almost an impossibility for one person exhaustively to state them;

but he believes that, imperfect as the case now presented may be as to the argumentative ground which it covers, or the method of dealing with the various aspects of the question considered, he has presented a weighty, if not a conclusive and convincing, case in favour of the retention of the Church of England as the national, established, and endowed Church of the country. Readers will fill up the outline of the case for their own use, according to the standpoints from which they consider the various aspects of the questions discussed, and according to the resources of information at their disposal, or as their attention may be called to the omission of a particular argument, or to the defective statement or use of another. The author will have realized his object if he has succeeded in presenting only an outline case which others may fill up and perfect as circumstances require, and if he has furnished material for arguments to meet the opponents of the Church which those who make use of them may formulate and enforce in their own particular effective way.

As this volume has been written for a specific purpose, and to deal in a certain way with given aspects of the Church Disestablishment controversy, it is necessary and but fair to inform the reader that other phases and aspects of the questions herein discussed are dealt with in other publications of the author, written to meet special wants of required information. Thus *The Englishman's Brief*, etc., will be found, in the main, to be an exhaustive manual on most questions involved in or arising out of the Disestablishment controversy, but, covering the extensive ground which it does, its statements under the various headings are necessarily, as its title indicates, very brief. *The Established Church Question: How to deal with it*, which was written to supply a common and urgent want amongst Churchmen

in these controversial times, is arranged in a popular form on the plan of enumerating the whole series of the principal objections against the Church as quoted headings to some eighty-three chapters, and replying to them accordingly. The object of the author in his *Dead Hand in the Free Churches of Dissent* was to put Churchmen in possession of information in the shape of facts and arguments to show that the very Liberationists who seek to liberate the Church from State control are themselves subject to State control in the religious affairs of their own communities in a more restrictive and aggravating form than that of which either the clergy or laity of the Church of England have any experience; while the conversational manual, *Talks on Tithes: Why pay them?* will present, to persons desiring information on the subject with which it deals, necessary knowledge pertaining to it in a more attractive and perhaps more intelligible form than can be found in mere dry legal statements.

The author feels assured that if these books are studied in conjunction with the present volume, as dealing with different and special aspects of the current Church and State controversy, Churchmen reading them will not only be able to expose the prevalent fallacies of Liberationists, but will be able to make out a strong and convincing case for "Establishment."

To facilitate ready reference to the contents of this volume a copious index is supplied. Readers will do well to make constant use of it.

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# THE CASE FOR "ESTABLISHMENT" STATED.

## PART I.

### I.

*Is Union between Church and State contrary to the Teaching of the Old Testament?*

THE principle of a union between Church and State lay at the very base of the whole Jewish dispensation. Every member of the Jewish nation, from the king on his throne to the humblest of the people, belonged at the same time to the sacred community of the Church and to the commonwealth of the State. The laws of Church and State were not only closely interwoven with each other, but they were inseparably blended together. The Jewish religion, therefore, which, even in its minutest details, was divinely appointed and prescribed, was a "Church and State religion."

So much is admitted by the strongest opponents of the principle of union between Church and State under the Christian dispensation. They say that "there was indeed an established religion among the Jews, but it was established of God," and they argue that because a union between Church and State is not in like manner established in the

Christian dispensation, it must of necessity be wrong. At least, they declare that as there is no exact parallel between the two cases, we cannot claim the divinely established union between Church and State under the Jewish dispensation as a precedent for the union of Church and State under the dispensation of Christianity.

Our reply is, that we are dealing with principles and not with details; and we further point out that this objection goes too far for the opponents of the union between Church and State, forasmuch as God has established nothing in like manner and with such minute prescriptions either in Church or State in the Christian dispensation as He established the laws both in Church and State in the Jewish economy, and instituted the union between both.

Identity of circumstances and detail cannot, therefore, be demanded as a condition of our quoting a divinely instituted principle in the Old Testament dispensation as a precedent for its adoption, observance, and justification, under the New.

It is, we maintain, sufficient to show that a principle once established and enjoined by divine authority has not been abrogated. The superstructure which, in the case of the Jewish nation, was built upon it has passed away, but the foundation principle remains uncondemned. Christian ecclesiastical organizations based upon it may be defective in their detail of construction, and imperfect in their development, but that is a matter which is incidental to the method of building, and does not of necessity arise out of the fundamental principle. That is all we contend for here.

Seeing that the principle of union between Church and State was divinely appointed and acted upon in the Old Testament dispensation, and that its observance was never forbidden, as we shall see under the New, we have a right to assume that there is nothing in the principle itself contrary to the law or will of God.

2.

*Is the Principle of Union between Church and State contrary to the Teaching of our Lord and His Apostles?*

We can find nothing in the teaching of our Lord and His Apostles to which such a principle is opposed. The solitary passage to which opponents of the union between Church and State appeal in support of their views, is St. John xviii. 36, containing our Lord's statement to Pilate concerning the nature of His kingdom,—"My kingdom is not of this world."

But there is nothing in these words themselves, nor in the circumstances under which they were spoken, to afford even the slightest grounds for supposing that they had any reference whatever to the principle of union between Church and State.

The meaning of our Saviour's words must be determined by the circumstance which gave rise to them. The circumstance was simply this. Pilate had asked our Lord the question, "Art thou the King of the Jews?" and He replied, "My kingdom is not of this world." The express meaning manifestly is, "In whatever sense I am king, it is not in the sense which you mean, and which is the subject of your inquiry. Mine is not an earthly kingship. It is not of this world. It is not opposed to the imperial dominion of Cæsar."

The relationship or union between Church and State was not in question. No reference to such thing was implied in the inquiry of Pilate; no reference to such thing is expressed in our Saviour's answer.

3.

*Conditions of such Union must be judged on their own Merits.*

The principle of the union between Church and State not being in itself contrary to Holy Scripture, the conditions and circumstances of any such union must be considered in

the presence of the teaching of Holy Scripture on their own merits. If the Church of England had said that "Christ's kingdom is of this world," or if such an assumption lay at the basis of her union with the State, then one could understand her opponents quoting the words of Christ against her.

But where has the Church of England said Christ's kingdom is of this world? From what words that she has at any time spoken can it be gathered that she has ever held or taught such a doctrine? By what act of hers has she shown that she has misapprehended the idea that our Lord meant to convey in all His teaching relative to the spiritual character of His Church? We know of no passage in any document set forth by her in which she states anything that is not in harmony with those words of our Lord Jesus. On the contrary, she teaches that His is a spiritual kingdom or spiritual reign, and that He is a spiritual sovereign, reigning over the consciences, hearts, and affections of His people; and that the whole work of God in the soul is spiritual, begun, continued, and ended by Him; calling out each child of God from the world and making him a subject of a heavenly kingdom; so that while he is in the world he is not of it, and while he is mixed up in its daily affairs and engagements as a man and as a political citizen, he bears about with him in his heart the abiding conviction, that here he has no continuing city, he seeks one to come—a city that hath foundations, whose builder and maker is God; and that he is "a member of Christ, a child of God, and an inheritor of the kingdom of heaven."

4.

*As the Primitive Church became settled, and free from Repressive Persecution, some Relations to the State would become necessary with reference to her External Affairs.*

As persecutions ceased, and branches of the Christian Church established themselves in various countries, it was *scarcely possible* for them to avoid entering into certain

relationships with the States in the midst of which they found themselves placed.

In securing land on which to erect their places of worship, in building their churches, and in holding in them public services, conformity to the customs and usages of the State of which they were subjects would be required of them. The purchase, etc., and conveyance of land, the legal securing of their buildings erected thereupon, and the holding of their meetings for worship was in some way or other under the supervision of the civil magistrate.[1]

Such relations of the Church to the civil power were not only reasonable, but were, from the nature of things, necessary, and we are not aware that ever such relations with the State were refused by any body of early Christians on the pretence that it would have nothing to do with the civil power in matters of religion.

In fact, for a long period the difficulty with the early Christians in almost every State was to find the barest toleration, instead of legal recognition as lawful bodies of men, and obtaining, as such, from the State protection and security in their rights to meet together for worship, to carry out their ecclesiastical government, and to hold property on trust for the sacred purposes of their religion.

But in cases in which such State recognition and protection were offered, there is no reason to believe, from the circumstances of the case, it would have been wrong for the Church to have received it; nor is there any probability that the Church would have refused to accept it, at least there is no recorded instance of her ever having done so.

[1] See Gibbon's "Roman Empire," chap. xvi.

5.

*When the Church became a Recognized Institution in any Country, some Relations with the State with Reference to the Control of her Internal Affairs would be necessary.*

So long as the members of the ministry and members of the Church will in all things submit absolutely and unconditionally to the decisions of purely voluntary spiritual authorities in matters of dispute which may arise amongst them, there need not be, of necessity, any legal relations on the part of the Church with the State with reference to the matters, processes, and procedures of her internal government; and indeed, there need be no recourse to the State at all to seek its interference with what might be called the family affairs of the Church.

And in such a case the State would have no grounds of interference with the internal government of the Church, unless, indeed, it had good reason to believe that the Church was making use of her rights and privileges, congregations and meetings, for the purpose of undermining its authority and government, or was using these for some other unlawful purpose. It would entirely depend upon the loyalty and obedience of the members of the Church, in yielding ready and implicit obedience to her rulings on contentious points, as to whether it would be necessary for the Church to call in the intervention of the coercive power of the State. This might be necessary to enforce her sentences of judgment against certain unruly and rebellious members, who might refuse to submit themselves to her voluntarily exercised spiritual and ecclesiastical authority. For it must be remembered that the Church of herself, as a spiritual institution, possesses no coercive jurisdiction whatever. While she has received from Christ power to judge and pass sentence upon her own members in matters of discipline, etc., in the execution of her inherent powers of spiritual and ecclesiastical self-government, she has no power of *herself coercively to* enforce these sentences upon those

who will not voluntarily obey them and submit themselves to them.

6.

*Our Lord did not confer the Power of Coercive Jurisdiction upon His Apostles and His Church, and they did not exercise it.*

That our Lord's gift of the keys to St. Peter (St. Matt. xvi. 19), His recognition of the Church as the ultimate tribunal for adjudicating on matters which concern her members (St. Matt. xviii. 15–18), and His breathing upon His Apostles, and imparting to them the Holy Ghost (St. John xx. 22, 23), may be taken as conferring upon the Church absolute control over her ministers and members with respect to things ecclesiastical, we do not think there can be a doubt, and that that power was exercised by the Apostolic Church—notably, as described in 1 Cor. v. and 2 Cor. ii.—is clearly and conclusively proved.

It would be needless to dwell upon this point further, for the whole of ecclesiastical history of apostolic, primitive, and later times shows that the Church claimed the right and power of discipline, exercised and executed it over her ministers and members, and morally enforced her spiritual sentences as she thought fit upon those who chose voluntarily to submit to her decisions.

As to this fact there cannot be any question; but the point is—given that any minister or member of the Church refused to submit to her jurisdiction in any particular case, how was she to deal with him? To compel him to submit would take for granted the employment of coercive or physical force, and with this coercive power our Lord did not invest His Church. His kingdom, in this sense at least, was "not of this world." The authority and power over her ministers and members which He committed to her were solely of a spiritual and ecclesiastical nature. The employment of the sword, and all that is involved in it, belonged *exclusively* to the civil magistrate, and to the civil

magistrate the Church has always been obliged to appeal for the enforcement of her sentences against persistently rebellious members; while members of the Church, feeling themselves aggrieved by her disciplinary sentences pronounced against them, have not hesitated to invoke the aid of the civil power to resist their execution.

In either case this would necessitate the intervention, even if we do not call it the intrusion, of the civil power into the spiritual domain of the Church, forasmuch as for the purposes of justice and judgment it would be necessary for the civil power to consider the basis on which the Church had taken action in any given case, to review the whole proceedings with reference to it, and to confirm and execute the sentence of the Church, or to reverse it, or to resist its execution as against its subjects affected thereby. While from St. Paul's description of the state of things in the Church at Corinth (as contained in 1 Cor. vi.), it is somewhat difficult to understand whether the Christians at Corinth carried for *coercive* final settlement to the heathen state courts questions which had been already considered and adjudicated upon by the Church, it is certain that they did carry to the civil tribunal for settlement questions which they ought not to have removed from the jurisdiction of the Church, which the Church was fully competent to decide, and by whose decisions in such matters they ought to have felt themselves bound.

## 7.

### *The Primitive Church was obliged to have Recourse to the Coercive Jurisdiction of the State.*

In cases in which the members or ministers of the Church would not submit to her ruling, she would either have to put up with schismatic anarchy in her midst, or appeal to the civil power for protection. Paul of Samosata, Bishop of Antioch, in the year 275, for instance, was deposed from his bishopric, and excommunicated from the

Church; yet, not heeding the sentence of the Council of the Church against him, he usurped the office of bishop, and kept possession of the church building for some years afterwards, until, on petition of the bishops, the civil power intervened in the person of the Emperor Aurelian, who, on review of the proceedings, ordered the building to be given up to such person as the bishops of Rome and Italy should name. Eusebius states that Paul was driven from office by the temporal power.

Another case which might be cited as illustrative of our subject is the case of a schism which arose in Africa as to two rival bishops who claimed the See of Carthage—Cæcilian as representing the orthodox, and Majorian the representative of the Donatists. A body of bishops was appointed to decide between them. They gave their judgment against Majorian. His supporters, the Donatists, were dissatisfied, and refused to submit. The Emperor Constantine laid the matter before a Council at Arles in the year A.D. 314, and the Council confirmed the decision of the bishops. The Donatists appealed to the emperor himself to examine into the matter. Constantine gave the final sentence, excluding Majorian from the Bishopric of Carthage. The appeal to the civil power, though made by the schismatical Donatist party, so far as there is evidence to show, was not protested against by the Church.

A further instance as between the Donatists and orthodox Christians arose out of an attempt of St. Augustine to heal the schisms which had arisen out of their continued disputes. For this purpose he sought the intervention of the Emperor Honorius, who commissioned Marcellinus, one of his chief civil officers, in the year 411, to convene an assembly, preside at it, and give judgment, upon the questions under debate. Marcellinus did so, and pronounced against the Donatists, and in his sentence he declared that those who refused to conform should be deprived of the churches of which they had retained possession by his permission when they had agreed to appear before him.

Not long before this the Donatists had received similar assistance themselves from the civil power, in regaining possession of their churches from a body which had seceded from them.

Further, under Charles the Great, when a case could not be settled before the bishops or the metropolitan, he directed that it should be brought finally before himself. The synods referred their decisions to him that they might be supplemented, amended, or confirmed.

The early English laws prove that similar powers were exercised by the sovereigns before the Conquest, and throughout the mediæval period the English king never surrendered his supreme visitorial power, *i.e.* the power of determining finally, on his own responsibility and at his own discretion, the ecclesiastical relations of his subjects.[1]

Whether these appeals to the civil power in disputed ecclesiastical questions, and the intervention of the sovereign finally to settle them, were in accordance with the inherent ecclesiastical jurisdiction of the Christian Church or not, are points on which we are not called to express an opinion here; we simply cite these cases to show that the Christian Church possessed no coercive powers to carry out its own sentences against contumacious bishops, clergy, and members, but was obliged to have recourse to the State to give effect to its judgments.

## 8.

### *Present Dependence of Churches and other Religious Bodies on the Civil Power for Final Sentence and Coercive Jurisdiction.*

In the case of the Eastern Church in Russia, the Holy Synod has supreme authority, under the Czar, over all ecclesiastical affairs. The Czar is personally supreme over all civil and ecclesiastical procedure. The members of the

[1] See Ecclesiastical Courts Commission Report, p. 15.

Holy Synod are chosen and appointed by him, and his relation to it does not appear to be defined or limited by any legal instrument. He sometimes exercises directly the powers which properly belong to the ecclesiastical tribunal, but generally he acts through the Synod. In the Synod he is represented by a high official, Chief Procurator, who has a veto on all its results until laid before the Czar. The Synod cannot give effect to any of its decisions without the emperor's consent. So that in the case of the Eastern Church in Russia, spiritual and ecclesiastical sentences are the conjoint judgments of both the ecclesiastical and the civil power as constituent elements of the same ecclesiastical assembly or tribunal; and therefore the civil power would claim, from its point of view, to be satisfied with the justness of the sentences before carrying them into execution.[1]

In France, submission to the sentences of the Church depends almost entirely upon the voluntary and loyal obedience of those affected by them. The Roman Catholic Church in France possesses in itself no coercive jurisdiction, and has no power to enforce sentences given in its ecclesiastical courts. The bishops are required to inform the Government of the changes which take place in their dioceses by the appointment and removal of clergy; and the civil courts have power to interfere in ecclesiastical matters on the ground of breaches in the law between Church and State.[2]

With reference to the so-called "Free Churches"—the various religious bodies in France—while their synods in theory appear to have complete control over their internal discipline and the administration of their affairs, their decisions, of whatsoever kind, are submitted to the approbation of the Government. They cannot even meet for deliberation without the permission of the civil authorities, and when permission of meeting is granted, the duration of their sessions is limited to six days.

[1] See Ecclesiastical Courts Commission Report, pp. 9, 10.
[2] Ibid., pp. 10, 11.

As to the Disestablished Church of Ireland, the Episcopal Church of Scotland, and the various Colonial Churches, it is a popular error to suppose that their constitution is such as to debar all possibility of appeals to the State. They have no doubt their own ecclesiastical courts and orders of procedure, which ensure the settlement of all disputed questions within themselves if the parties concerned will voluntarily submit to their decisions. But when their own processes in their ecclesiastical assemblies and courts are exhausted, and the litigants still remain dissatisfied, it is evident that an appeal must ultimately be made to the Civil Power to enforce sentences already given, if not to pronounce the final sentence itself, which we can scarcely imagine would ever be done without a review on its part of the proceedings which had already taken place.[1]

The Church which of all others appears, in its ecclesiastical courts and procedure, to be most independent of the civil power is the Established Church of Scotland. It is believed that in no ordinary case would the civil court entertain an appeal from a judgment given in the ecclesiastical court on a question of doctrine, or enter on an examination of the soundness of such a judgment before enforcing its civil consequences. But then, it must be borne in mind that a Lord Commissioner, as representing the Crown, takes part in the meetings of the General Assembly, whose constitutional powers are not exactly defined or limited; and it is allowed that such acts might be done within the communion of that Church as might be held to constitute a violation of its powers, and consequently to justify an appeal to the civil courts.

Other cases, such as the Episcopal Church in America, the Colonial Churches, and the Disestablished Church in Ireland, might be cited to corroborate the fact illustrated, that whether or not the civil power, at any particular stage of an ecclesiastical dispute, has power to intervene its authority, or whether it may be appealed to to modify or

[1] See Ecclesiastical Courts Commission Report, p. 11.

alter ecclesiastical sentences given in certain cases, all Churches and religious bodies in all countries are at least dependent upon it for the enforcement of their decisions; and generally it may be taken for granted that it would satisfy itself of their justness before carrying them into execution, and this would naturally involve a review of the proceedings.

## 9.

### *It is not clear that the Church of England in the Past ever exercised Coercive Jurisdiction in compelling her Members to submit themselves to her Discipline, etc.*

It is difficult exactly to say what the Bishops of the Church may have done before the days of William the Conqueror, when the jurisdictions of the Church and State were almost indiscriminately blended.

"Under our native kings," says Freeman, "the Church and the nation were far more truly one than they were at any time after the Norman Conquest. The nation was deeply religious. The Church was deeply national. The same assemblies and tribunals dealt alike with ecclesiastical and with temporal matters, without the least idea that either power had thrust itself into the proper province of the other."[1]

The Bishop and the Earl were the constitutional presidents of the local assemblies, before the Conquest.[2]

The civil and ecclesiastical courts worked harmoniously together. The relation of the Church to the State, says the Bishop of Chester,[3] was thus close, although there was not the least confusion as to the organization of functions, or uncertainty as to the limits of the powers of each. The history, however, of the Church of the united or West Saxon dominion, on which the fury of the Danes fell, and which rose from ruin in closer union than before with the national

[1] See Freeman's "Norman Conquest," vol i. p. 369.
[2] Ibid., vol. v. p. 446.
[3] See Stubbs' "Constitutional History," vol. i. p. 234.

polity, has many features in marked contrast with the earlier and simpler life of the heptarchic Churches.

In fact, the lines between the spiritual jurisdiction of the Church, and the civil jurisdiction of the State, were indistinguishable. They were completely merged into one, so that whatever power the State possessed was at the disposal of the Church to enforce her sentences and decrees.

"A dispute," says Freeman, "between Church and State could hardly have arisen in those earlier days of England, when the Church and the nation were in the strictest sense two aspects of the same body. But the Conqueror, by separating the ecclesiastical and temporal jurisdictions, had taught men that Church and State were two distinct bodies, which, being distinct, might possibly be hostile."[1]

These two jurisdictions have been, in all phases of the Church's history, recognized as separate and independent from the time of William the Conqueror down till the time of the Reformation; that is to say, in things spiritual and ecclesiastical the Church was absolute and uncontrolled in passing her sentences, and the temporal power, without review, carried them out. In *theory*, on the statute books, this is still the same; in *practice* it is not.

The unrepealed Magna Charta still affirms that "The Church of England shall be free, and shall have all her whole rights and liberties inviolable."

By the 9th of Edward II., statute 1, chapter 16, the civil tribunals are still forbidden to intrude upon the domain of the spiritual courts, or to interfere with what rightly belongs to them.

By the 15th of Edward II., chapter 6, it is expressly enacted that "the ministers of the Church shall not answer before the King's justices for things done touching the jurisdiction of the Church."

By the 24th of Henry VIII., chapter 12, the separateness and independence of the jurisdictions of the Church and State are set forth, and emphatically affirmed under the designations of the "spirituality" and "temporality."

[1] "Norman Conquest," vol. v. p. 129.

By the same statute it is declared that the spirituality of the Church, in the exercise of its spiritual jurisdiction, is alike independent of the Pope or the State, and "is sufficient and meet of itself, without the intermeddling of any exterior person or persons, to declare and determine all such doubts, and to administer all such offices and duties as to their rooms spiritual doth appertain."

And referring to the separate jurisdiction of Church and State, the same statute declares that "they do conjoin together in due administration of justice, the one to help the other."

And yet, in the face of these statutes, which are still unrepealed and intact on the statute book, what is the result? Why, simply this: that, though our various Church Courts still exist, none of their decisions are *compulsorily* final. In matters of dispute—where the dispute is persisted in—the ultimate appeal in spiritual matters in the case of the Church, as in religious matters in the case of any of the sects, is still to the civil power, as represented by the Judicial Committee of Privy Council; so that, in fact, whether we take the Church of England or the Church of Rome in this country, or the different sects with their numerous creeds and observances,[1] none of them have absolute jurisdiction over their own members or ministers, with reference to doctrine, discipline, or anything else. In all things in which they do not voluntarily submit to their own courts or authorities, the ultimate appeal is to the civil power.

[1] For a full and detailed argument showing the entire subjection of Nonconformists to State control, we refer our readers to "*The Dead Hand* in the Free Churches of Dissent;" also to an article in the *Church Quarterly Review*, April 1885, entitled "Dissenting Trust-Deed Creeds and State Control."

10.

*Both the Church of England and Nonconformist Bodies are equally dependent upon the Coercive Jurisdiction of the State to enforce their Sentences of Discipline upon their Contumacious Members.*

Churchmen and Dissenters are both thus ultimately dependent upon the coercive jurisdiction of the State, even in the most purely spiritual matters. The question may, then, be asked by Churchmen and Dissenters alike—and it may be in almost desponding, if not despairful, tones by some—must we, then, always appeal to Cæsar, and to Cæsar must we go and abide his ruling?

We say, not necessarily. We need not have anything whatever to do with Cæsar. The remedy is, wherein our Church Courts are defective, let us get them altered in accordance with the wish of our constitutional representative Church Councils. When we do so, loyally in all things let us obey their sentences, and submit ourselves to their judgments.

In these modern days at least, Cæsar's Court has never of itself sought out for ecclesiastical cases in order to adjudicate upon them. Cæsar's Court has something else to do, and does not wish to be troubled by them. Cæsar's Court, by the law of the Church and the realm, cannot move itself to action in ecclesiastical proceedings; but when they are brought before it, if they are such as are within its jurisdiction, it must deal with them.

Some persons, not content with the judgment of the Church Courts, must move it to action; but when Cæsar's Court is so moved, we do not see how we can do otherwise than submit to its ruling, or suffer the penalties it imposes for disobedience.

The remedy for all things in which there is an alleged grievance as to State control in matters of religion, whether in questions affecting the Church of England, the Church of Rome in this country, or the Nonconformist bodies, is,

"Don't appeal to Cæsar; otherwise, if an appeal be made to Cæsar, to Cæsar all concerned must go, and by his judgment must be bound." It is hopeless to expect legislation to enact otherwise. No "liberation of religion from State patronage and control" can ever in this country liberate the Church of England, the Church of Rome, or the sects from this subjection to the State tribunals.

## PART II.

### *Outline Story of the Anglo-Saxon and Pre-Norman Church. Some of her Distinguishable Features.*

THE purposes of this book do not require that we should at any length dwell upon the history of the Church of England prior to the Norman Conquest. Nor would the limited space at our disposal, and the extensive controversial area which we have to cover in dealing with the varied aspects of the numerous subjects which we have to discuss, allow us to do more than rehearse the principal facts and enumerate the fundamental principles which stand out prominently in the life of the English Church from her earliest period till the time of the Reformation.

And even the consideration of these we are obliged to limit and subordinate to our purpose by the measure of their reference and relevancy to questions of current controversial interest. Is the present Church of England the same old historical Church of the country? Had she a separate and independent ecclesiastical life apart from Rome? Did any change take place in her at the Reformation which was destructive of her identity? How did her rights and liberties originate? Was she always regarded as an institution in her constitution, government, and jurisdiction separate from and independent of the State with respect to the administration of her own laws and the management of her own affairs? From whom was her property derived?

Whence come her resources for church extension and organization? Are there any sufficient reasons in the condition and constitution of her present life—in her relations to the State, to the religious bodies outside her communion, and to the people of this country generally—to justify in any way the proposals made for her Disestablishment and Disendowment? Those are the prominent questions to which we are chiefly concerned to obtain full and satisfactory answers.

It is with some such questions as these before our mind, and with a desire to obtain the necessary answers, that we scan the history of the Church in the past, and look into her present life and condition for the discovery of any fact or principle which will throw light upon these subjects.

The story[1] which relates how Gregory, Bishop of Rome, was moved to send the Benedictine monk, Augustine, and his forty companions on a mission to the Anglo-Saxons, is one of the most familiar in church history. Bertha, the French-born queen of Kent, being a Christian, was the great support of the missionaries, but the relics of the old Christianity of the land were also an important help to them. Two Christian churches at least, it is said, were in existence close to the walls of Canterbury. A large number, probably, of the Christianized Roman-Britons existed as a subject population. The traditions of Christianity had survived, and were recalled to remembrance. Hence the rapid success of Augustine and his companions, in spite of the distant attitude assumed by the leaders of the British Church towards them. The southern and central parts of Britain were rapidly reconverted to the faith of Christ; Northumbria and Mercia became subject to Canterbury; nearly the whole island was Christian, and all parts of it recognized and submitted to Archbishop Theodore. His administration of the Church was marked by great vigour and wisdom; he was especially solicitous to promote learning. A large number of new sees were founded by him, and a great work was done

[1] See Dr. Perry's article on "English Church," in the Encyclopædia Brittanica.

by him in the foundation and settlement of parish churches, and the rearrangement of the tithes. Thus Archbishop Theodore may really be said to have been the founder of the National Church of England, as in her essential features of constitution and organization she has come down to us.

St. Gregory's scheme for organizing the Church seems to have been more intended for a compact nation than for a number of tribes, and accordingly it was not a success. Archbishop Theodore's scheme opened the prospect of a more complete unity than that of Gregory, and was successful in consolidating the elements of ecclesiastical life which he bound into one complete church organization.[1]

After the more or less complete failure of the Augustinian mission, the whole fabric of the English Church had to be rebuilt from the foundations. Roman Christianity had passed away, the seats of the bishops had become desolated ruins, the succession of bishops, even from Augustine, had almost, if not entirely, died out, when Theodore undertook the work of reconstruction.[2]

The dioceses were originally coincident with the original petty kingdoms; the court of the king was the principal mission station, and from thence were sent out monks and priests to convert the outlying settlements.[3]

Our oldest episcopal sees are foundations of later date than the Saxon Conquest, and the limits of their dioceses answer, not to any British or Roman territorial division, but to the boundaries of ancient English principalities.[4]

Bishoprics were gradually founded, the limits of each diocese answering to those of a kingdom or principality.[5]

The bishop had his residence and his cathedral church in some particular part of his diocese, but his special home was not always in the greatest town of the diocese. At the Council of London, 1075, however, it was ordered, with the king's sanction, that episcopal sees should be removed

[1] See Stubbs' "Constitutional History," vol. i. pp. 218, 219.
[2] Ibid., pp. 217–220.
[3] Ibid., pp. 224, 225.
[4] See Freeman's "Norman Conquest," vol. i. p. 16.
[5] Ibid., *vol. i. p. 29.*

from villages or small towns to cities, and three bishoprics were at once removed by virtue of this decree.[1]

Both in England and in other parts of the British Isles the titles of bishops were for a long time more commonly territorial or tribal than local, and in the case of some of the Celtic bishoprics, the territorial style is kept to this day. It is so with the bishoprics of Meath, Ossory, Galloway, Ross, Argyll, The Isles, Caithness, and Sodor and Man. The Scandinavian bishopric of Orkney follows the same rule.[2]

The history of this period is related in great detail by Bede. The Council of Cloveshoe (747), among other things, ordered that the clergy should teach the people the Creed and the Lord's Prayer in the vulgar tongue, and explain to them the nature of the sacraments. The Saxon Church at this period was one of the most flourishing in Europe. It sent out missionaries to Germany; it produced poets of considerable power, as Aldhelm; it furnished Charlemagne with the most learned and efficient of his instruments for the revival of learning, in Alcuin of York. But this happy state of things was rudely interfered with by the irruptions of the pagan Danes. The reign of Alfred was a real boon to the Church, not only as breaking the power of the Danes, but as introducing a strong stimulus to the cultivation of learning. After their decisive defeat by Athelstan, in 938, the Danes in England generally began to embrace Christianity, which prepared the way for its reception by the second great series of invading bodies towards the end of the century. About this time the number of parish churches was very considerable, there being in Lincolnshire alone upwards of two hundred. The clergy were obliged to possess a considerable number of books, and to expound the Gospel every Sunday to the people in English, and the Creed and the Lord's Prayer as often as possible. During the sad times which followed, church services were everywhere interrupted, and the clergy dispersed. Archbishop Alphage fell a victim to the heathen Danes; but when at length

[1] See Freeman's "Norman Conquest," vol. ii. p. 604.
[2] Ibid., vol. iv. p. 414.

King Canute declared himself a Christian, things rapidly assumed a more promising aspect; and when, in 1042, the English family was restored to the throne, the Church was at its highest point of power and influence.

The student of the history of the Church of England in all current controversies concerning her will do well to bear in mind her essential features which in outline we here indicate.

Legally and historically continuous with the Church of the most ancient times, the Church of England acknowledges the supremacy of the Crown as that to which "the chief government of all estates of the realm, whether ecclesiastical or civil, in all causes doth appertain."

She is established, or recognized by the law as the National Church, and endowed—that is, the gifts of land or tithes made to her in ancient times are secured to her by law.

The Church of England has always had a national character. In mediæval Acts of Parliament she was called by the same name as at present, and was never identical with the Church of Rome, which was usually described as the court (or curia) of Rome.

The worship of the English Church has never been identical with that of Rome.

The second canon of the synod of Cloveshoe, 747, indicates a complete independence in the English Church, and implies a censure on any who ventured to appeal to Rome.

"No church," says Professor Freeman, "was more distinctly the child of the Roman Church than the English Church; but for that very reason the English Church kept more of distinctness and independence than any other. While the other Western Churches might pass, sometimes for parts of the Roman Church, sometimes for its subjects, *the Church of England kept the position, dutiful, but not servile, of a child who has reached full age, and who no longer forms part of his father's household.*"[1]

[1] *See* Freeman's "Norman Conquest," vol. v. p. 340.

In England, alone in the West, a purely national Church arose. The English Church, reverencing Rome, but not slavishly bowing down to her, grew up with a distinctly national character, and gradually infused her influence into all the feelings and habits of the English people.[1]

This powerful corporation paid only a doubtful and undefined allegiance to Rome, and was not at all in the condition of vassalage in which most of the Continental churches were placed.

The early English Church, as Dr. Perry says, did not accord with the Roman in the materialistic outline of the Eucharist. The doctrine of the Church of England at this period may be fairly gathered from the writings of the Abbot Ælfric, which were approved by Sigeric, Archbishop of Canterbury. In these the consecration of the Eucharist is explained, not as involving any material change in the elements, but as conferring a spiritual presence.

England before the Conquest was singularly exempt from direct interference by the Pope. The visits of the Archbishops to Rome to receive the pall in person seem to have been regarded as a sufficient recognition of the dignity of the Apostolic See. The visitatorial jurisdiction which Gregory VII. attempted to exercise was resisted by William the Conqueror, who formally laid down the rule *that no legate should be allowed to land in England unless he had been appointed at the request of the King and the Church.* Nor was the arrival of a legate more welcome to the clergy. Anselm had to remonstrate with Pascal II. for giving to the Archbishop of Vienne legatine power over England, and in doing so to assert that *such authority belonged by prescriptive right to the see of Canterbury.*[2]

The Church was not endowed any more than established by any definite act of the State, but, growing up together with the State, it obtained sources of revenue from the piety of the faithful, its position and its revenues being, not created, but defended and secured by law.

[1] See Freeman's "Norman Conquest," vol. i. p. 32.
[2] See Stubbs' "Constitutional History," vol. iii. pp. 298–301.

At the time of the Norman Conquest there were about 4,500 parish churches in England, besides numerous monasteries and the cathedral churches of the sees.

The correctional police of the whole population was in the hands of the Church. Civil and ecclesiastical causes were heard in the same courts, and synods adjudicated in cases of property when the rights of the Church were concerned.

The priest took rank with the thane; the bishop ranked with the ealdorman, and presided jointly with him over the shire-gemót.

The separation of the ecclesiastical and temporal jurisdictions by the Conqueror led almost immediately to claims on the part of Churchmen to exemption from all temporal jurisdiction.[1]

All suits touching the temporalities of the clergy were submitted to the jurisdiction of the king's courts, and against so reasonable a rule scarcely any traces of resistance on the part of the clergy are to be found.

The right of patronage was determined in the king's courts, but some concerted and harmonious action with the Church courts was indispensable.

In criminal suits the secular courts were bound to assist the spiritual courts in obtaining redress and vindication for clergymen who were injured by laymen.

Of the temporal causes which were subject to the cognizance of ecclesiastical courts, the chief were matrimonial and testamentary suits and actions for the recovery of ecclesiastical payments, tithes and customary fees.

When King William held his Gemót, and Lanfranc directly after held his Synod, the prelates who took part in both assemblies were, then as now, members at once of the Upper House of Parliament and of the Upper House of Convocation.[2]

The great places in the Church were filled by Normans or other strangers whom William could trust. Englishmen

[1] See Freeman's "Norman Conquest," vol. v. p. 494.
[2] *Ibid.*, p. 416.

were wholly shut out from the rank of bishop, and but sparingly admitted to that of abbot.[1]

Under the Conqueror, when bishoprics were systematically bestowed on the king's clerks as a reward for temporal service, and the king's chancellor succeeded to a bishopric as a matter of course, the bishops became courtiers, and men of business, rather than Churchmen. The bishop became a baron, holding his lands by military tenure, and possessing manors, castles, and military retinue.[2]

The king's love of order led him to admit the canonical rights of the chapters of the churches, the synodical powers of the clergy, and even the occasional exercise by the popes of a supreme appellate and legatine jurisdiction. He, however, saw distinctly the point at which his own authority must limit this liberty. The bishops might be elected by the chapters, but the election must be held in his court; the clergy might be trusted without compulsion to choose his candidates. The councils might be held when the archbishop chose, but the king's consent must be obtained before the assembly could meet or exercise any legislative power. Papal jurisdiction was not excluded, but no legate might visit England without royal licence.[3]

### *Principles which regulated the Relations between Church and State prior to the Conquest.*

The Bishop of Chester—whose words we substantially give—tells us that the period before the Norman Conquest may naturally be divided into three sections: an earlier one, during which the Christian Church acted as a missionary body or as a purely voluntary association; a second, during which it was accepted as the national religion in the several kingdoms into which England was then divided, and possessing a constitutional unity solely by virtue of its

[1] See Freeman's "Norman Conquest," vol. iv. p. 330.
[2] Ibid., vol. v. p. 496.
[3] See Stubbs' "Constitutional History," vol. i. p. 317.

spiritual organization; and a third, during which it was the recognized religious system of the united nation. During the first of these periods, he tells us, it is obvious that the entire authority of the Church, as far as it could be said to exist, was external to the State. During the second, the consolidated machinery of central authority was external to the State, although, in its complete area, it coincided with the area of the kingdom in which it existed. And in the third there was such a union of Church and State as was consistent with the joint action of two bodies of different origin and history, working together for civil and religious ends.

Of the later Anglo-Saxon periods he says that, close and somewhat confused as the relations of Church and State became, the source of legislative authority in the Church must have been always distinguished from the source of authority in the State by the fact that in its origin it lay outside the nationality, and was, by its intercommunion with other Churches, and especially by its relations to Rome, a part of a great ecclesiastical system which at that time had no analogy whatever in the secular relations of the State. "Ecclesiastical suits in England were heard and decided in the motes or public assemblies of the shire and hundred, which were held at fixed times and places, or by special summons in special cases, and in which the bishop and ealdorman, sitting side by side, as representatives of Church and State, are said to have expounded the divine and secular law."

The Anglo-Saxon bishops, as the lords of large estates, the jurisdiction of which was separated from that of the shire-mote, possessed also courts of secular jurisdiction, in which ordinary civil and criminal cases arising between laymen would be tried. It is very probable that in early times confusion might arise as to the limits of the two courts of jurisdiction; but, on the analogy of lay jurisdiction of later times, it is probable that the bishop's steward was president of such courts, whilst in the purely ecclesiastical causes the *bishop himself*, or perhaps his archdeacon, might preside.

With reference to the bishop and ealdorman sitting in the same court to administer justice, it might be supposed that their jurisdiction would naturally be merged in each other, and that judgment in an ecclesiastical case would scarcely have been kept separate from the secular element of adjudication and administration of the law; while in a purely secular case the sentence pronounced could scarcely have been the exclusive product of the civil judge. The Bishop of Chester tells us, however, that the balance of interference was on the ecclesiastical rather than on the lay side, and that instead of supposing that there was any undue influence of laymen in ecclesiastical cases, it is to be inferred that there was an undue influence of clergy in lay cases, and that thus national and political as well as religious reasons might be given for the changes introduced by William the Conqueror by abolishing the courts in which the spiritual and civil judges conjointly administered justice, and led him to separate the jurisdiction by constituting independent spiritual and temporal courts.[1]

### *After the Conquest.*

As to the amount of authority which was given to ecclesiastical legislation, and by what means kings interfered to prevent additions to the national canon law of constitutions and regulations which might be prejudicial to the rights of the subjects of the State and the authority of the Crown, we are told that the policy of kings and archbishops generally prevented the question from being summarily decided. It was a part of the policy of the Conqueror to secure that no general council of bishops should enact or forbid anything but what was agreeable to his own will or had first been ordained by him. In the reign of Henry I. the king's consent to certain statutes made in council of the clergy is distinctly expressed; but from this time onwards, and certainly after the cession of John, the

[1] See Ecclesiastical Courts Commission Report, Historical Appendix, *No. 1, pp. 22-24.*

method of restraint was confined to the issue of warnings and prohibitions addressed to the Archbishop of Canterbury, and was limited to the rare occasions on which the primate was obliged to recall an ecclesiastical Act once passed. The practice seems to have been that, except where the Crown or Parliament took direct umbrage at a particular Church enactment, freedom of ecclesiastical legislation was generally permitted. Many of the bishops made canons in their own diocesan synods, which were received generally in other dioceses according to the esteem in which their authors were held, and, no doubt, influenced the received interpretation of ecclesiastical law. It must be observed, however, that in all recorded interferences with Church legislation *the royal power was exercised only in restraint of Acts relating to temporal matters*, and, in general, to those which, in the department of legal procedure, were understood to come under the head of things prohibited as not within the area of ecclesiastical legislation or jurisdiction.[1]

## PART III.

### *The Position, Status, Property, and Jurisdiction of the Church up till the time of the Reformation, as set forth in the Statutes.*

IT will be understood that our object in the present section in giving quotations from consecutive statutes of the realm is to enable our readers to perceive for themselves the light in which the Church regarded herself in relation to the State; the view the Crown and the realm entertained of those relations; her recognized absolute ownership in her property for ecclesiastical purposes; and the status, prerogatives, and liberties which by the Crown and nation

[1] See Ecclesiastical Courts Commission Report, Historical Appendix, No. 1, p. 25.

were conceded to be her rights. Whether given statutes were right or wrong, expediently or otherwise, in the things they enacted, they must be taken as the expression of the mind of the nation for the time being on the subjects with which they dealt. This being so, they are the highest source of authority to which we can have access to ascertain how the Crown and Legislature looked upon the ecclesiastical matters under their consideration, and the opinions they held concerning them. Looking at these statutes, therefore, of which the following quotations are extracts, representing very different but successive periods of English history, we are in a position to see for ourselves that the Church, as an ecclesiastical institution, had at a very early period formulated for herself an elaborate organization and constitution; had acquired from private sources a vast amount of property; possessed over her own concerns an almost independent separate jurisdiction; was most deeply involved in all the great and little affairs of the nation, in her life, work, and influence; permeated all classes of society, and to a great extent regulated their lives and affairs in all that affected their spiritual concerns. All these things were more or less distinctly recognized by successive enactments.

Aggressions on the Church's rights and liberties constantly took place in the history of the nation, and infringements upon her legislative freedom and ecclesiastical jurisdiction often occurred; but it will be seen that protests against these were frequently and effectually made, and laws were passed to remedy the grievances, and put an end to the wrongs complained of. The modern ideas held and propagated by the opponents of the Church, that she was in some way or other created by State law, endowed by State law, regulated by State law and funds, and such-like views concerning her, find not a shadow of foundation in these statutes. Their varied and united testimony affords the most convincing evidence to the contrary.

As for questions between Churchmen and Churchmen concerning the relations between Church and State, and involving differences of opinion as to the wisdom of the

provisions of this or that statute, or as to the present constitution of our ecclesiastical courts, and the pure and simple spiritual jurisdiction to which advocates of entire independence of the Church in her spiritual affairs lay claim, we have nothing to do as a part of our purpose in bringing the provisions of these statutes forward here in evidence. We simply array them as evidence against the wholesale Liberationist misrepresentations of the true story of the relations which have prevailed between Church and State throughout the entire history of both up till and subsequent to the time of the Reformation.

I.

## Separateness of Church and Realm.

*The Church and the Realm were recognized as separate, and their respective liberties as separate and independent Institutions were guaranteed by* 9 *Henry III.*

THE words of the statute are :—

"Know ye that we, unto the honour of Almighty God, and for the salvation of the souls of our progenitors and successors, kings of England, to the advancement of Holy Church, and amendment of our realm, of our mere and free will, have given and granted to all archbishops, bishops, abbots, priors, earls, barons, and to all freemen of this our realm, these liberties following, to be kept in our kingdom of England for ever."

The spiritual rights and liberties of the Church are derived from Christ. The civil rights and liberties, like those of any other institution, are derived from the State. It was the Church's civil rights and liberties which by Magna Charta were guaranteed. Magna Charta did not create them. The Church possessed them long before that instrument had any existence. It was their frequent infringement by the Crown which rendered their solemn setting forth in that document necessary. The Church's freedom and the freedom of the people rest upon the same chartered basis. The Church and the people fought for

them together against the tyranny of kings, and were together victorious in the struggle.

2.

### The Church is called the Church of England.

*The Church is recognized and described, not as the Church of Rome, nor as a part of the Church of Rome, but as the Church of England, and as such, and not as a branch of Rome, her rights and liberties, already in her possession, are declared to be inviolable, and are associated and guaranteed with the liberties of the Realm, by* 9 *Henry III. cap.* 1, *Magna Charta.*

The words are :—

"We have granted to God, and by this our present Charter have confirmed, for us and our heirs for ever, that THE CHURCH OF ENGLAND SHALL BE FREE, and shall have all her whole rights and liberties inviolable. We have granted also, and given to all the freemen of our realm, for us and our heirs for ever, these liberties, to have and to hold, to them and their heirs, of us and our heirs for ever."

It is strange, in the face of Magna Charta and many subsequent statutes in which the nationality of the Church is set forth under the designation of the Church of England, that certain opponents of the Church should still persist in asserting that up till the time of the Reformation there was no Church of England, but that the Church was simply a part or branch of the Church of Rome.

3.

### The Church and Realm acquired their Rights and Liberties together.

*The Church and the Realm were associated in their early struggle for Liberty, and were successful in extorting the Charter of the Forest from Henry III., as is shown by* 9 *Henry III. cap.* 4.

In the Charta Forestæ it is set forth :—

"All archbishops, bishops, abbots, priors, earls, barons, knights,

and other our freeholders which have their woods in forests, shall have their woods as they had them at the first coronation of King Henry, our grandfather, so that they shall be quit for ever of all purprestures, wastes, and asserts made in those woods after that time until the second year of our coronation."

People in these days who violently assail the Church on the alleged grounds that she is the enemy of freedom, have little idea of how much they are indebted to her as the successful champion of liberty. If the Church and her influence could be blotted out of England's history, the England of the present would be bereft of some of the brightest and noblest passages in its annals. Instead of freedom reigning supremely in the land, tyranny and oppression might still have the upper hand, and in the place of constitutional government the people might still be ruled by the arbitrary will of kings. The Church shared with the people the fellowship of oppression, and she rejoiced with them in the fellowship of freedom.

4.

## The Church pays a High Price for her own and the People's Liberties.

*For the free liberties and free customs guaranteed by the Charter of the Forest, the Church and Realm paid subsidies to the King to the extent of one-fifteenth of their movable goods. The Charter is signed and promulgated at Westminster by* 9 *Henry III. cap.* 37.

The Statute runs :—

"All these customs and liberties aforesaid which we have granted to be holden within this our realm, as much as pertaineth to us and our heirs we shall observe; and all men of this our realm, as well spiritual as temporal (as much as in them is), shall observe the same with respect to theirs in likewise. And for this our gift and grant of these liberties and of other contained in our charter of liberties of our forest, the archbishops, bishops, abbots, priors, earls, barons, knights, freeholders, and other our subjects, have given unto us the fifteenth part of all their movables."

As the price of her own and the people's liberties the

Church gave to covetous kings liberally of her substance. Her property was always admitted by statute to be her own, over which she had free disposing power in and for all lawful objects. In cases in which her property was violently taken from her, it was admitted to be a wrong, and redress was frequently given to her.

## 5.

### Breakers of the Great Charter pronounced excommunicate.

*On May 3, 1253, the Archbishop of Canterbury and his Suffragan Bishops pronounced the solemn sentence of excommunication against all violators of the "Church's Liberties" and the "Liberties of England," set forth in the Great Charter, as is recorded in 37 Henry III.*

The statute says, after recording the names of the prelates present:—

"Bishops apparelled in pontificals, with tapers burning, against the breakers of the Church's liberties, and of the liberties or other customs of the realm of England; and namely of those which are contained in the Charter of the common liberties of England, and Charter of the Forest, have denounced the sentence of excommunication in this form." Then follows the sentence in the usual form against "All those that hereafter willingly and maliciously deprive or spoil the Church of her right, and all those that by any craft or wiliness do violate, break, diminish, or change THE CHURCH'S LIBERTIES AND FREE CUSTOMS," and against "all that, secretly or openly, by deed, word, or counsel, do make statutes, or observe them, being made, and that bring in customs, or keep them when they are brought in, against the said liberties."

The important event described in this statute stands out as one of the most prominent and interesting in English history. The Church and the Barons of England withstanding the extortions and oppressions of the king, compel him in the most formal manner to confirm the Great Charter. For this they agreed to grant him supplies of money. The ceremony of confirmation in the Great Hall of Westminster was invested with all the solemnities which accompanied the

Church's most awful sentence of excommunication, and in the face and form of this dreaded censure, which was pronounced beforehand on all breakers of the Great Charter, the king was made to swear that he would keep it inviolate.

## 6.

### The Church the Guardian of the Nation's Liberties.

*By 25 Edward I. stat. 2, the guardianship of the chartered rights and liberties of the Church and Realm was committed to the Archbishop of Canterbury, who pronounced the solemn sentence of excommunication on all violators of the same.*

The words of the statute are :—

"Whereas our sovereign lord the King, to the honour of God and of Holy Church, and for the common profit of the realm, hath granted for him and his heirs for ever these articles above written, Robert ARCHBISHOP OF CANTERBURY, PRIMATE OF ALL ENGLAND, admonished all his province once, twice, and thrice. Because that shortness will not suffer so much delay as to give knowledge to all the people of England of these presents in writing; we therefore enjoin all persons, of what estate soever they be, that they and every of them, as much as in them is, shall maintain and uphold these articles granted by our sovereign lord the King, in all points. And all those that in any point do resist or break, or in any manner hereafter do procure, counsel, or otherwise assent to resist or break those ordinances, or go about, by word or deed, openly or privily, by any manner of pretence or colour: we, the foresaid Archbishop, by our authority in this writing expressed, do excommunicate and accurse, and from the body of our Lord Jesus Christ, and from all the company of heaven, and from all the sacraments of Holy Church, do sequester and exclude."

Just as the Church had fought for and paid for, where necessary, her own and the nation's rights, so when these were obtained she watched over them, and became their faithful guardian and keeper. She made them known to the people, and by the frequent rehearsal of them kept them fresh in their memories. She enforced them by the sanctions of religion, and pronounced the most awful sentences of excommunication against their violators, whether

kings, nobles, or peasants. When no other power could be found to curb the tyranny of kings, and restrain oppressors of the people, as all impartial historians confess, the Church only by her threatened ecclesiastical censures was equal to the occasion.

7.

### Great Charter to be read in Cathedrals and Parish Churches.

*For the more assured safe keeping and observance of the Charter, its special custody was, by* 34 *Edward I. stat.* 4, *cap.* 6, *committed to the Archbishops and Bishops, who were to read it in their Cathedrals twice in the year, and to cause it to be read in Parish Churches.*

The words are:—

"For the more assurance of this thing we will and grant that all Archbishops and Bishops for ever shall read this present Charter in their cathedral churches twice in the year, and upon the reading thereof in every of their parish churches shall openly denounce accursed all those that willingly do procure to be done anything contrary to the tenor, force, and effect of this present Charter in any point or article. In witness of which thing we have set our seal to this present Charter, together with the seals of the Archbishops, Bishops, etc., which voluntarily have sworn that, as much as in them is, they shall observe the tenor of this present Charter in all causes and articles, and shall extend their faithful aid to the keeping thereof."

The reading of the Great Charter in cathedrals and churches was something like an incorporation of the rights and liberties of the people into her religious services. Certainly no greater trust could have been committed to the Church than the safe keeping of Magna Charta, and well and faithfully, even her enemies being witness, did she perform such a solemn duty.

8.

**Clergy in the King's Service not exempt from the Jurisdiction of their Bishops.**

*The Clergy employed in the King's immediate service, alike with others not so employed, were subject to the spiritual jurisdiction of their Bishops, as declared by* 9 *Edward II. stat.* 1, *cap.* 8.

The statute says :—

"It pleaseth our lord the King that such clerks as attend in his service, if they offend, shall be correct by their ordinaries, like as other."

The spiritual jurisdiction of the Church is here plainly conceded by statute, even over clergy who were employed in the service of the king. This jurisdiction, so far as spiritual and ecclesiastical offences are concerned, is still exercised by the bishop of each diocese over his clergy. This jurisdiction is inherent in the Church as a spiritual institution, but its exercise often carries with it social and civil consequences, which would render its free exercise impossible without the authority of the State.

If all clergy would submit themselves to this jurisdiction without appeal to the civil power, the Church of England, though in union with the State, would be ecclesiastically in the fullest sense a self-administrative and self-governing body effectually liberated from State control.

9.

**Clergy engaged in the King's Service might be for a limited time Non-resident on their Benefices.**

*By the same Statute the King claims for such of the Clergy as are employed in his immediate service, the privilege of non-residence on their benefices for a limited time, and this is declared to be an ancient custom, and not prejudicial to the liberties of the Church.*

The exact words are :—

"*The King* and his ancestors since time out of mind have used,

that clerks which are employed in his service, during such time as they are in service, shall not be compelled to keep residence on their benefices. And such things as be thought necessary for the King and the commonwealth ought not to be said to be prejudicial to the liberties of the Church."

The exemption here claimed, of temporary non-residence on their benefices of clergy engaged in the king's service, is not claimed as an arbitrary act of the Crown, but is a claim made in accordance with an ancient custom which had existed time out of mind, thus showing that even kings felt it necessary to appeal to precedent in favour of claimed exemptions from the laws of the Church.

10.

**Grievances of the Clergy Admitted and Redressed.**

*Certain grievances of the Church of England, her Bishops and Clergy, were admitted by* 9 *Edward II. stat.* 1, *and provisions made for their redress.*

By the statute it was set forth :—

"The King to all whom, etc., sendeth greeting. Understand ye that whereas of late times of our progenitors sometimes Kings of England, in divers their Parliaments, and likewise after that we had undertaken the governance of the realm, in our Parliaments many articles containing divers grievances (committed, as therein was said, against THE CHURCH OF ENGLAND, the prelates and clergy) were propounded by the prelates and clerks of our realm; and further, great instance was made that convenient remedy might be provided therein; and of late in our Parliament, holden at Lincoln, the ninth year of our reign, we caused the articles underwritten, with certain answers made to some of them heretofore, to be rehearsed before our Council, and made certain answers to be corrected; and to the residue of the articles underwritten answers were made by us and our Council."

This statute, usually called *Articuli Cleri*, contains a record of the oppressions and grievances suffered by the *Church of England*, for which remedies were provided.

The whole history of the Church abounds with illustrations of the oppressions suffered by right from might.

*Against all these*, however, the Church never ceased to

struggle, and though frequently and extensively despoiled of her rights and property, she has handed down to us priceless liberties as the result of her conflicts with tyranny and wrong.

II.

**The Honour of God and of Holy Church are the First Considerations in the Charter of England's Liberties.**

*The Rights and Liberties of the Church were ratified and confirmed, and their observance enforced, by* 25 *Edward I. stat.* 1, *cap.* 1.

The statute, in confirming the Great Charter, and the Charter of the Forest, says :—

"Know ye that we, to the honour of God and of Holy Church, and to the profit of our realm, have granted for us and our heirs that the Charter of Liberties and the Charter of the Forest, which were made by common consent of all the realm, in the time of King Henry our father, shall be kept in every point without breach."

The pre-eminence which the Church had gained in the minds of the whole people of the realm may be inferred from the chief place which is assigned to her in every edition of the Great Charter. The primary concern of every such document, as expressed in its preamble or forefront, is to preserve, or make sure, or more effectually make provision for, or guarantee, the honour of God and of Holy Church.

12.

**The Church is made the Safe Keeper of the Great Charter guaranteeing the Liberties of the People.**

*The Church is made the depository and custodian of her own and the nation's Charter of Liberties, by* 25 *Edward I. stat.* 1, *cap.* 3.

The words are :—

"We will that the same Charters shall be sent under our seal to cathedral churches throughout the realm, there to remain, and shall be read before the people two times by the year."

No higher or more honourable recognition of the lofty position occupied by the Church in the esteem of the State could have been made than for the king to send the sealed charters, not to any mere civil depository, but to the cathedrals and churches, there to be kept and to be read "two times in the year."

13.

**The Sacredness of the Great Charter is safe-guarded by the Threatened Censures of the Church.**

*The much-feared power of the Church's excommunication is resorted to, the better to insure the keeping of the Great Charter, as appears by* 25 *Edward I. stat.* 1, *cap.* 4.

The statute says :—

"All Archbishops and Bishops shall pronounce the sentence of excommunication against all those that by word, deed, or counsel do contrary to the aforesaid Charters, or that in any point break or undo them. And that the said curses be twice a year denounced and published by the prelates aforesaid; and if the same prelates, bishops, or any of them be remiss in the denunciation of the said sentences, the Archbishops of Canterbury and York for the time being shall compel and distrain them to the execution of their duties in the form aforesaid."

The fear of the censures of the Church has frequently in history restrained evil men from doing that from which no other consideration would have deterred them. Many a time did the Church effectually wield her power of spiritual censure and ecclesiastical excommunication in defence of the weak and unprotected, against tyranny, and on behalf of public liberty.

14.

**The Crown pledges itself to guard against Extortions from the Church.**

*The Church, Bishops, Clergy, etc., to be free from extortions on the part of the Crown, as provided by* 25 *Edward I. stat.* 1, *cap.* 6.

The words of the statute are :—

"*Moreover* we have granted, for us and our heirs, as well to Arch-

bishops, Bishops, Abbots, Priors, and other folk of Holy Church . . . that for no business from henceforth we shall take such manner of aids, tasks, nor prises, but by the common consent of the realm, and for the common profit thereof, saving the ancient aids and prises due and accustomed."

The would-be disendowers of the Church would do well to attend to the words of this statute, wherein King Edward, as representing the Crown of England, lays no claim to any right or interest in the property of the Church other than that which was due and accustomed, and pledges himself "for no business from henceforth," to take anything over and above this from the Church.

## 15.

### Unjust Exactions from Religious Houses to cease.

*By 9 Edward II. stat. 1, cap. 9, and stat. 2, cap. 11, it was provided that all unjust exactions from the Church should cease, and that spiritual persons and religious houses should no longer be burdened by being made to give excessive hospitality.*

The words of the first statute mentioned are :—

"The King's pleasure is that from henceforth such distresses shall neither be taken in the King's highway, nor in the fees wherewith churches in times past have been endowed."

The latter statute says :—

"It is desired that our lord the King and the great men of the realm do not charge religious houses or spiritual persons for corodies, pensions, or sojourning in religious houses and other places of the Church, or with taking up horses and carts, whereby such houses are impoverished and God's service diminished; and by reason of such charges priests and other ministers of the Church deputed unto Divine Service are oftentimes compelled to depart from the places aforesaid. The King's pleasure is that, upon the contents of their petition, they shall not be unduly charged. And if the contrary be done by great men or other, they shall have remedy after the form of the statutes."

Under the plea of claiming hospitality from the clergy and religious houses while travelling from one place to

another, the privilege came to be greatly abused both by the king's servants and great men of the country, who made themselves wrongfully and oppressively chargeable upon the liberality of the clergy and the religious establishments. Unjust demands and extortions were made on all hands upon ecclesiastical persons, so that they were frequently compelled to flee from their posts of duty to escape subjection to them. For this grievance the above section of the statute provided a remedy.

16.

**The Bishop the Sole Judge of the Fitness of Persons to hold Benefices.**

*The ancient right of the Bishop to be the sole judge of the fitness or unfitness of persons to hold Benefices was recognized by* 9 *Edward II. stat.* 1, *cap.* 13, *and was fully assented to, even in the case of persons presented to Benefices by the King.*

The statute declares:—

"It is desired that spiritual persons whom our lord the King doth present unto benefices of the Church (if the Bishop will not admit them either for lack of learning or for other cause reasonable) may not be under the examination of lay persons in the cases aforesaid, as it is now attempted, contrary to the decrees canonical, but that they may sue unto a spiritual judge for a remedy, as right shall require. Of the ability of a person presented unto a benefice of the Church, the examination belongeth to a spiritual judge; and so it hath been used heretofore, and shall be hereafter."

In the recognition of the bishop as sole judge of the fitness of any person presented to him for a benefice, there is an admission of his power to exclude, on just grounds, any such person from entering upon a spiritual charge, but also incidentally to debar him from the pecuniary emoluments attaching to the benefice, and so far a bishop may be said to be not only an ecclesiastical judge, but a spiritual judge, whose decision carries with it important temporal results.

17.

**The Church free to elect her own Dignitaries without Fear of the Temporal Power.**

*The Church's freedom to elect her own dignitaries without any fear of the temporal power was recognized and guaranteed by* 9 *Edward II. stat.* 1, *cap.* 14.

The words of the statute are :—

"If any dignity be vacant, where election is to be made, it is moved that the electors may freely make their election without any fear of any power temporal, and that all prayers and oppressions in this behalf cease." The answer: "They shall be made free according to the form of statutes and ordinances."

It is no part of the object of our remarks in this place to enter into the changing methods of appointing bishops in the history of the Christian Church. The point that we have to deal with here is to call attention to the facts that the Church had definite views concerning her own rights in the matter, that she evidently regarded her rights as violated, and that her complaint was admitted and her grievances were remedied. There are rights in the matter of appointing bishops now, which, though not lapsed, are suspended as to their exercise by the Church.

Though appointments made under the present system are good and beneficial to the Church, that is no reason why the Church now, following the precedent of the Church in Edward's time, should not be encouraged to regain the freedom of the exercise of her ancient elective rights.

18.

**The Courts Temporal were not to interfere with the Jurisdiction of the Courts Spiritual.**

*The civil courts were enjoined not to interfere with the jurisdiction of the spiritual courts; and the clergy who offended against the laws were subject only to trial in the spiritual courts, as set forth by* 9 *Edward II. stat.* 1, *cap.* 16.

The statute runs as follows :—

"Some temporal judges (though they have been instantly desired

thereto) do not deliver to their ordinaries, according to the premises, such clerks as confess before them their heinous offences, as theft, robbery, and murder, but admit their accusation, which commonly they call an appeal, albeit to this respect they be not of their court, nor can be judged nor condemned before them upon their own confession, without breaking of the Church's privilege. The privilege of the Church being demanded in due form by the ordinary, shall not be denied unto the appealor, as to a clerk. We, desiring to provide for the state of Holy Church of England, and for the tranquillity and quiet of the prelates and clergy aforesaid, as far north as we may lawfully do, to the honour of God, and emendation of the Church, prelates, and clergy of the same . . . do grant and command," etc.

It was no wonder that the spiritual and temporal jurisdiction which, up till the time of William the Conqueror, were exercised in the same court, should, when separated and exercised in two different courts, become at times somewhat confused, without any intention of intruding upon each other's domain. Consequently there sprang up a jealousy between, which sometimes developed into a strong animus on the part of the judges of the temporal court against the jurisdiction of the ecclesiastical court. The tendency of the temporal or state courts was to try persons and questions over which the spiritual courts only had jurisdiction, and so, on complaint of the Church, temporal judges were enjoined not to interfere.

## 19.

### Infringements on the Liberties of the Church protested against and remedied.

*Means were taken by Edward III., as well as by Edward II., to protect and guard the liberties of the Church, which were frequently infringed, as set forth in* 14 *Edward III. stat.* 4.

The Act, called "Statute for the Clergy," runs :—

"Edward, by the grace of God, etc., greeting. Know ye that whereas, in the first article of the Great Charter, it is contained that THE CHURCH OF ENGLAND BE FREE, and have all her rights entirely and franchises not blemished ; and also in all the whole establishments made as well in times of our progenitors, as in our own time, the same article

is often ratified and confirmed; nevertheless, in our Parliament holden at Westminster, the Wednesday next after the Sunday of Middle Lent, it is showed unto us by the reverend father in God, John, Archbishop of Canterbury, Primate of England, and the other prelates and clergy of our realm, how some oppressions and grievances be done in divers manners by some of our servants to people of Church, against the franchises of the Great Charter and the establishments aforesaid, which oppressions they show in petition, praying, upon the same, remedy. Wherefore we, their petition seen and regarded, . . . have granted and do grant," etc.

The mere fact of the rights and liberties of the Church and of the people being inscribed in the Great Charter did not prevent, on the part of arbitrary and tyrannical kings, constant attempts to infringe them. Against these attempts the Church, though patient and long-suffering, was ever watchful, and insisted upon new royal pledges being given of more faithful observance of the provisions of the Charter, with remedies for their violation.

20.

**The Crown Promises to make the Property of the Church inviolate.**

*Provisions against grievances and oppressions, to which the Church of England was subject in things temporal, were made by* 14 *Edward III. stat.* 4, *cap.* 1.

The words are:—

"That none of us, nor by other by commission of the great seal, nor of the small, nor without commission, shall take any corn, hay, beasts, carriage, nor other goods of archbishops, bishops, abbots, priors, abbesses, prioresses, parsons, vicars, or of other people of Holy Church, within their houses, manors, granges, nor other places within the fees of Holy Church, nor without, against the agreement and will of the owners of the same goods. . . . Also we grant for us and our heirs, that we shall not from henceforth charge any of the said prelates or clergy, nor their houses, to receive guests nor sojourners," etc.

Also in cap. 3:—

"We will and grant for us and for our heirs, that from henceforth we nor our heirs shall not take nor cause to be taken into our hands the temporalities of archbishops, bishops, abbots, priors, or other people of

Holy Church, of what estate or condition they be, without a true and just cause, according to the law of the land, and judgment thereupon given."

Words like these bear upon their face admissions and confessions of perpetuated injustice and wrong upon the Church. If the king and the great men of the realm regarded the temporalities of the Church as the absolute property of the State, in the sense that Liberationists allege that they are, there would be no records of regret in the statutes for their having laid violent hands upon such property, promises of amendment in that respect for the future, and solemn pledges on the part of the king to respect law and justice. The Liberationists have invented an idea as to the ownership of Church property which never entered the minds of kings, nobles, and people of the realm.

21.

### During the Vacancies of Bishoprics and other Dignities their Temporalities were to be kept in Safe Custody.

*Temporalities of archbishoprics, bishoprics, etc., to be kept in safe custody, without waste or damage, during their voidance, as declared by* 14 *Edward III. stat.* 4, *cap.* 5.

The statute says:—

"To show the affection and goodwill which we have, THAT THAT PERTAINETH TO GOD AND HOLY CHURCH BE SAFELY KEPT WITHOUT WASTE OR DESTRUCTION, or impeachment to be made thereof by us or our ministers, we will and by these special letters do grant full power to our said chancellor and treasurer, which . . . shall let the vacations of archbishoprics, bishoprics, abbacies, priories, and other houses, whose voidances pertaineth unto us, to the dean and chapter, prior or sub-prior, prioress or sub-prioress or convent, to yield a certain of every voidance by the year, quarter, or month, during the vacations, according as to them shall seem best, without making any fine," etc.

Whatever depredations were committed at times upon the Church's property, it is evident from these words that the Crown, as represented by Edward III., regarded itself as having no ownership in it. It simply regarded itself as its trustee and guardian, to keep it inviolate, without waste

or damage, for the sacred purposes to which it was devoted. Even the shade of an idea of the spoliation schemes of the Liberation Society had not dawned upon men's minds. Crown and State and nobles all alike as much acknowledged the Church's ownership in her own property as they recognized the ownership of the people of England in their property.

22.

**The Church a Loyal, Patriotic, and Liberal Supporter of Crown and State.**

*The Church was recognized by* 18 *Edward III. stat.* 3, *cap.* 1, *as foremost in loyalty and patriotism in supporting the Sovereign and the State by large subsidies in times of national difficulty.*

The statute runs :—

"First, whereas many things have been attempted by the party our adversary of France, against the truce late taken in Britain betwixt us and him, and how that he enforceth himself, as much as he may, to destroy us and our allies, subjects, lands, and places, and the tongue of England; and thereupon we prayed the prelates, great men, and commons, that they should give us such counsel and aid as needs be in so great necessity. And the said prelates, great men, and commons, having thereof good deliberation and advice, and seeing openly the subversion of the land of England and of our great business, which God defend, if speedy remedy be not provided, have counselled jointly and severally and with great assistance prayed us, that, in assurance of the aid of God, and our good quarrel, we should make us as strong as we might to pass the sea, and by all the good means that we might at this time to finish our wars. And that for letters, words, nor fair promises we should not let our passage till we did see the effect of our business; and for this cause aforesaid granted to pass and adventure themselves with us. And THE SAID PRELATES AND PROCURATORS OF THE CLERGY HAVE GRANTED TO US FOR THE SAME CAUSE A TRIENNIAL DISME, to be paid at certain days, that is to say, of the province of Canterbury, at the feasts of the Purification of our Lady, and of Saint Barnabas the Apostle; and of the province of York, at the feasts of Saint Luke and the Nativity of Saint John Baptist."

Except in cases in which the hands of violence laid hold of the property of the Church, she alone, according to the laws of the realm, had the disposing power over it.

*The clergy* voluntarily taxed themselves for the support of

the Crown and the defence of the State. The patriotism and liberality of the clergy are here manifested in their triennial subsidies, which they readily granted for the prosecution of the war with France in defence of England's rights.

23.

**Proofs of Last Wills and Testaments belonged to the Church.**

*By ancient right and custom, proofs of last wills and testaments were made in the spiritual court, and not in the civil courts, and belonged to the jurisdiction of the Church. Temporal justices were not to interfere with the jurisdiction of the Church in this behalf, as declared by* 18 *Edward III. stat.* 3, *cap.* 6.

The words are:—

"Whereas commissions be newly made to divers justices, that they shall make enquiries upon judges of Holy Church whether they made just process or excessive in causes testamentary and other, which notoriously pertaineth to the cognizance of Holy Church, the said justices have enquired and caused to be indicted judges of Holy Church, in blemishing of the franchise of Holy Church; that such commissions be repealed, and from henceforth defended."

The jurisdiction of the Church in testamentary matters, and the administration of the estates of intestates, fell into her hands in the twelfth and thirteenth centuries, not—as the Bishop of Chester says—without a struggle. As it was impossible to devise freeholds by will, the jurisdiction was restricted to chattel interests, and was in its origin based upon the right of the Church to enforce obligations of honour and faith, and was subsequently enlarged by the principle laid down that the Church should dispose of the goods of the intestate for the benefit of his soul. The right to compel executors to fulfil their trust was apparently conceded to the Church by the law courts without difficulty. This jurisdiction, however, the Church did not possess exclusively, for it appears that many manorial courts exercised the like authority, having probably retained it in unbroken custom from the days in which wills were proved in the shire or

hundred mote. The jurisdiction of the Church with reference to these matters was recognized by the twenty-seventh article of Magna Charta, and, though some differences of opinion arose about it, it was ultimately consented to by the Crown.[1]

When temporal judges infringed the jurisdiction of the Church in this respect, they were by law prohibited from so doing, of which prohibition this statute is an instance.

24.

**The Crown debarred from making Presentations to Benefices which did not of right belong to it.**

*Precautions were taken by* 25 *Edward III. stat.* 3, *cap.* 3, *against usurpation of the Crown in the matter of attempting to present to benefices, the right of presentation to which was vested in any spiritual or secular person.*

The statute says:—

"The King will and granteth, that in what time he shall take collation or presentment from henceforth to any benefice in another's right, THAT THE TITLE WHEREUPON HE GROUNDETH HIMSELF SHALL BE WELL EXAMINED THAT IT BE TRUE, and at what time before judgment the title be found by good information untrue or unjust, the collation or presentment thereof made shall be repealed."

It is remarkable how many and various the grievances were from which the Church suffered. Now it was from the greed and violence of the barons taking forcible possession of her property; again it was from the Crown burdening bishops and religious houses with enforced and oppressive hospitality, and with the exactions and extortions of tenths and fifteenths of their goods; again it was from the intrusion of the Pope and his favourites, taking possession of English benefices and bishoprics, and demanding heavy ecclesiastical dues for the See of Rome. Here it is manifest that the statute is intended to guard against the king thrusting persons into the possession of benefices to which he had no right of presentation or collation. Nearly every

[1] See Ecclesiastical Courts Commission Report, Historical Appendix, No. I. *p. 28.*

ecclesiastical statute is in itself the history of a grievance, a complaint, and a remedy.

25.

**Statute of Provisors.**

*The Church and the State were protected from Roman Rapacity by the Statute of Provisors, 25 Edward III. stat. 6.*

The statute says :—

"Whereas the Holy Church of England was founded in the estate of prelacy, within the realm of England, by the said grandfather [Edward I.] and his progenitors, and the earls, barons, and other nobles of his said realm, and their ancestors, to inform them and the people of the law of God, and to make hospitalities, alms, and other works of charity in the places where the churches were founded, for the souls of the founders, their heirs, and all Christians; and certain possessions as well in fees, lands, rents, as in advowsons, which do extend to a great value, were assigned by the said founders to the prelates and other people of the Holy Church of the said realm, to sustain the same charge, and especially of the possessions which were assigned to archbishops, bishops, priors, religious, and all other people of Holy Church, by the kings of the said realm, earls, barons, and other great men of his realm; the same kings, earls, barons, and other nobles, as lords and advowees, have had and ought to have the custody of such voidances, and the presentments and the collations of the benefices being of such prelacies."

This statute enacted that the king and other lords should present unto benefices of their own or ancestors' foundation, and not the Bishop of Rome. This Act also sets forth the causes why the kings and noblemen of the realm gave lands to the bishops and other prelates, and also sets forth how the patronage to benefices was usurped and abused by the Pope of Rome, who bestowed them upon aliens not dwelling in England. It sets forth the inconvenience to the realm which did thereof ensue, and how the Pope, in conferring upon aliens archbishoprics, bishoprics, abbeys, priories, as well as all other dignities and benefices in England, reserved to himself the firstfruits thereof, being one year's income in each case. It also provides that the

elections of the dignities of the Church should be free as they were founded; that patrons and founders of the dignities of the Church and their heirs were to have the collation or presentation to them when void; and that in any case in which the Court of Rome made provision, or assumed to collate to any archbishopric, bishopric, dignity, or other benefice, in disturbance of the free elections, collations, or presentations aforenamed, that such collation should be void. Persons, under the plea of provisions from Rome, who disturbed those in possession of dignities and benefices, who had been presented to them by the king or other patrons of Holy Church, were made subject to heavy penalties, and incurred the penalty of præmunire.

This statute was the protest of England's Church and realm against the usurped interference in their affairs, and the assumed right of the Pope to exact from the Church not only firstfruits and annates, but to dispose of her bishoprics and benefices to aliens. Rome's assumed powers over the affairs of the English Church were thus in the most solemn manner denied and withstood by this memorable statute, whose provisions were to be enforced against all violators, under the heavy penalties of præmunire. It would be well if those who persistently assert that England's Church until the Reformation had no independent existence apart from Rome, would give more attention to this and similar records of the independence of the English Church.

26.

**Temporalities of Bishops free from Seizure by the Crown.**

*Even in cases of contempt of court on the part of archbishops or bishops their temporalities were free from seizure on the part of the State, as declared by* 25 *Edward III. stat.* 3, *cap.* 6.

The Act says:—

"Because the temporalities of archbishops and bishops have been oftentimes taken into the king's hands for contempts done to him upon

writs of *Quare non admisit*, and likewise for divers other causes, whereof the said prelates have prayed the king that no such takings shall from henceforth be made, since they be peers of the land; the king will and granteth in the same Parliament that all justices which shall from henceforth give judgment against any prelate of the land in such case, or the like, that they in such case may fully receive, and from henceforth shall receive, for the contempt so judged, a reasonable fine for the party so condemned, according to the quantity of the trespass, and after the quality of the contempt, incontinently at the time of the judgment, if the party offer the same or otherwise after the judgment at what time the party will offer himself, and, if it need, the chancellor and the treasurer shall be called to the receipt of the said fines."

The temporalities of archbishops and bishops during the voidance of their sees were in the custody of the Crown, just as their spiritualities were, during their vacancies, held in trust and exercised by the deans and chapters of their several cathedrals.

William Rufus, by sacrilegious robbery, turned this trust of the Crown of the Church's temporalities into an abusive appropriation of their incomes to his own purposes, and for this object he kept bishoprics and other dignities vacant as long as possible, that he might the more extensively enrich himself from the treasures of the Church. Nor were reasons wanting in the shape of excuses for laying violent hands on the property of the Church at other times than during the vacancies of sees and benefices. Against these abuses provisions were made by the above enactments and by several successive statutes.

### 27.

### Clergy not to be arrested while engaged in the Service of the Church.

*The Clergy were not to be arrested while engaged in the services of the Church, nor while officiating in their ministrations to the sick—as declared by* 50 *Edward III. cap.* 5*—as had sometimes been done by temporal lords in violation of the liberties of the Church.*

The words are:—

"Because that complaint is made to our lord the king by the clergy

of this realm of England that as well divers priests bearing the sweet Body of our Lord Jesus Christ to sick people, and their clerks with them, as otherwise divers other persons of Holy Church, whiles they attend to divine services in churches, churchyards, and other places dedicated to God, be sundry times taken and arrested by authority royal, and commandments of other temporal lords, in offence of God, and of the liberties of Holy Church, and also in disturbance of divine services aforesaid, the same our lord the king, who would be sore displeased in any aid in such manner, will and granteth, and defendeth, upon his grievous forfeiture, that none do the same from henceforth."

The freedom of the clergy from arrest, detention, or interruption while engaged in the ministrations of the Church is a freedom not created by statute, but is simply recognized and confirmed by this means. This privilege is very ancient. Its infringement under the pretence of the authority of the Crown in certain cases is acknowledged to be a wrong, and provisions are made against its repetition.

The 24 & 25 Victoria c. 100, sect. 36, practically re-affirms the same privileges and extends them to all recognized ministers of religion.

## 28.

### Neither the King nor his Ministers were to violate the Rights of Sanctuary.

*By* 1 *Richard II. cap.* 15, *neither the King's Ministers nor others were to violate the rights of sanctuary of the Church, nor molest the Clergy in their ministrations.*

The words of the statute are:—

"Because that prelates do complain themselves that as well beneficed people of Holy Church as other, be arrested and drawn out as well of cathedral churches as of other churches, and their churchyards, and sometimes whiles they be intending to divine services, and also in other places, although they be bearing the Body of our Lord Jesus Christ to sick persons, and so arrested and drawn out, be bound and brought to prison against the liberty of Holy Church; it is ordained that if any minister of the king, or other, do arrest any person of Holy Church by such manner, and thereof be duly convict, he shall have imprisonment, and *then be ransomed* at the king's will, and make gree to the parties

so arrested; provided always that the said people of Holy Church shall not hold them within the churches or sanctuaries by fraud or collusion in any manner."

Though the ancient historical right of sanctuary within the boundaries of churchyards and other sacred places has long since passed away, a remnant of it may be said to remain, and to be re-enacted, in the provisions of certain modern Acts of Parliament which secure immunity from arrest, not only to the clergy of the Church of England, but to Dissenting ministers, while conducting public worship, and forbid, under a penalty, that they shall be in any way annoyed or interrupted during their ministrations in their churches and various places of worship.

29.

**Services rendered by the Church to the State acknowledged —a Re-confirmation of her Rights and Liberties.**

*The rights and liberties of the Church were recognized, confirmed, and guaranteed to her by 4 Henry IV. cap. 2.*

The words are:—

"Our said lord the king having in remembrance the faithful hearts and inward affection that the clergy of England hath borne to him, and also the great charges which the same clergy hath had and sustained for his honour and profit after his coronation, and therefore willing to be a gracious lord to them in their affairs, by the assent of the said lords, at the special instance and request of the said commons, will and granteth that the statutes made in the five and twentieth year of King Edward, grandfather to our lord the king that now is, touching the clergy of England, be entirely holden and kept, and put in due execution."

In addition to this statute, it was enacted by 4 Henry IV. cap. 3, that all the statutes, ordinances, and grants made and granted by the king's noble progenitors or predecessors kings of England to the clergy of England for the conservation of their liberties and privileges, and for the conservation of the liberties and immunities of Holy Church . . . . be firmly holden, observed, and kept, and put in due execution according to their form and effect.

Still further there was added the statute 7 Henry IV. cap. 1, declaring "that Holy Church have all her liberties and franchises."

30.

**The Church, in the Election of her Archbishops, Bishops, etc., free from interference of Pope or King.**

*Freedom was guaranteed to the Church to elect her Archbishops, Bishops, and other dignitaries, without interference of the Pope or King, by 9 Henry IV. cap. 9.*

The Act says:—

"From henceforth all the elections of all archbishoprics, bishoprics, abbies, priories, deaneries, and other dignities elective, or any other elections, be free, without being in anywise interrupted by the said Pope or by commandment of our sovereign lord the king."

In this, as in the preceding statute of the same year, the great principle of the Church's freedom to elect her own dignitaries was firmly asserted, saving always the ancient rights of the Crown, in the appointment of bishops; neither the usurped authority of Rome nor the king's arbitrary will or command was to be permitted to interfere with the Church's freedom of election. Whether this freedom of election was always respected by the Crown does not affect the important truth that such freedom of election was frequently affirmed in successive statutes to be the ancient law of the Church and realm.

[It will be understood that in referring, as we have done by our foregoing quotations, to some of the numerous statutes of the realm which, within the periods embraced, set forth and illustrate the relations of Church and State, we have limited our reference to such portions of the statutes as directly bear upon the subject of our book, and bring into clear light and prominence facts which are misunderstood and misrepresented by Liberationists and others in connection with the current controversy concerning Disestablishment and Disendowment.]

## PART IV.

### *How the Church was Affected by the Reformation; Principles involved in that Event, as set forth in the Statutes.*

I.

THE reign of Henry VIII. inaugurated an eventful era in the history of the English Church and nation. The changes which it wrought in the one were as great as those which it effected in the other. More rapid radical and revolutionary changes took place in the Church and kingdom in Henry VIII.'s reign, than had taken place in hundreds of years before. They have left their indelible marks upon the Church and the country, and the records of their nature, the objects contemplated by them, and the causes which led to them still remain on the Statute-book of the realm without alteration and modification.

Into the personal and matrimonial or other causes which led to a state of friction, and subsequently to open rupture, between Henry and the See of Rome, it is no part of our object here to enquire. We limit ourselves to the endeavour to ascertain what was the animus and what were the motives which led Henry VIII. and his Parliament to pass such sweeping revolutionary measures, affecting so widely and so deeply the whole future of the Church and State.

It will be admitted that the sources from which we can obtain most accurate and reliable evidence on these subjects will be the statutes themselves. If, then, we consider the enactments of those statutes in the light of the events which led to them, and as expressive of the mind of the nation, we shall have a tolerably clear idea of what was their definite meaning and of the objects which they were intended to secure. In fact, accurately and fully to understand any letters or documents of ancient date,

we must, as far as possible, try to realize the circumstances amidst which they were written, the events which they describe, and the ideas intended to be expressed by their authors.

In the interpretation of any such documents, we shall be liable to fall into serious errors as to their meaning if we judge of them from modern standpoints, or study them with the interpretative aids of current controversial meanings popularly attached to them.

Now, the chief statutes passed in the reign of Henry VIII. affecting the Church were :—

I. The "Statute of Citations" (23 Henry VIII. cap 9, 1532), forbidding citations of ecclesiastical cases from other dioceses to the Archbishop's Court, except at the request of the Bishop in whose diocese the case arose.

II. The Act for the restraint of appeals (24 Henry VIII. cap. 12, 1533), enacting that all appeals to Rome should cease.

III. The "Act for the Submission of the Clergy" (25 Henry VIII. cap. 19, 1534), enacting that in future all appeals, instead of being made to Rome, should be made immediately to the king's majesty; and further providing that Convocation should not assemble except by the authority of a writ from the Crown, and that no new canon or constitution should be enacted by that assembly, but by the Crown's sanction.

IV. The "Act concerning Peter's-pence, and Dispensations," which provided that this payment to Rome should cease, that neither the king nor any of his subjects should in future sue to the Bishop of Rome for licences or dispensations, and that all such licensing and dispensing power as had been exercised by the Pope of Rome to the Church and realm of England should be vested in the Archbishop of Canterbury [which power the Archbishop retains and exercises till this day].

V. The Act 26 Henry VIII. cap. 1, 1534, declaring his majesty to be the "Supreme head of the Church of England," etc.

Now, with reference to each and all of these statutes, the points to which we call special attention are that—They originated in no quarrel with the Church of England; they show no animus against the Church of England; they were not aimed at the Church of England. Wherein they seem to indicate want of trust and confidence in the Church of England, it is lest she should return to her allegiance to Rome. Wherein they restrict the liberty of the Church of England, it is lest she should use it, by secret endeavours, to bring back the abrogated supremacy of Rome.

All the restraints placed upon the Church were so many precautions on the part of the Crown and Parliament; not enacted with the primary intention of destroying the independence of the Church or crippling her freedom, but, in a state of great and uncertain revolutionary transition, to ensure, if possible, that the rupture between the Church and realm of England and the Pope having once taken place, and been legislatively affirmed, the bishops and clergy should, as far as possible, be safeguarded against reopening negociations with the Pope, or doing anything to restore his lost power in the Church and realm.

The paralyzing dread of Rome led to the passing of statutes which, to secure the ends in view—especially the provisions of the Act of Submission—were made unnecessarily stringent by curtailing the freedom of the Church, though such results were not at all the direct and immediate ends sought by those enactments.

This we conceive to be a plain and truthful representation of the purposes sought by the statutes referred to, notwithstanding the subsequent injuries which may have been inflicted upon the Church by the unaltered and unmodified continuance of these enactments upon the Statute-book, after the causes which gave rise to them, and the dangers which they were intended to provide against, have long since passed away; and this view of the subject we shall find corroborated by a review of some of their chief provisions.

2.

**Independence of the Realm of England affirmed, not as against the English Church, but against the Authority of Rome.**

*The Independence of the Realm of England was declared by* 25 *Henry VIII. cap.* 21, *sect.* 1, *not as against the Church of England, but as against the usurped authority of Rome.*

The words of the Act are :—

"This YOUR GRACE'S REALM, RECOGNIZING NO SUPERIOR UNDER GOD, but only your grace, hath been and is free from subjection to any man's laws, but only to such as have been devised, made, and obtained within this realm, for the wealth of the same, or to such other as by sufferance of your grace and your progenitors, the people of this your realm have taken of their free liberty, by their own consent to be used amongst them, and have bound themselves by long use and custom to the observance of the same; not as to the observance of laws of any foreign prince, potentate, or prelate, but as to the customed and ancient laws of this realm, originally established as laws of the same, by the said sufferance, consents, and custom, and none otherwise."

In this assertion of the independence of the realm of England as against the intrusion or interference of any foreign prince, potentate, or power, it was not meant to be implied that up till this time England was not an independent kingdom; but this formal assertion of her independence was necessary in the face of the attempted usurpation of Rome in the affairs of the country.

It was exactly the same thing in the assertion of the independence of the Church at this period. It was not meant thereby that up till this date the Church was not an independent spiritual institution; but it was meant that from this date she would not suffer the dictation or dominion of Rome in her concerns.

3.

**Antagonistic Legislation aimed against Rome, and not against the Church of England.**

*By* 25 *Henry VIII. cap.* 21, *the legislative animus of the Crown and Parliament is shown to be against the usurped authority of Rome and her exorbitant exactions, and not against the Church of England, and all payments to Rome are forbidden.*

The Act declares that:—

"No person or persons of this your realm, or of any other your dominions, shall from henceforth pay any pensions, censes, portions, Peter-pence, or any other impositions, to the use of the said Bishop, or of the See of Rome, like as heretofore they were used, BY USURPATION OF THE SAID BISHOP OF ROME AND HIS PREDECESSORS, and sufferance of your highness and your most noble progenitors to do; but that all such pensions, censes, portions, and Peter-pence, which the said Bishop of Rome, otherwise called the Pope, hath here before taken and perceived, or causeth to be taken and perceived, to his use and his chambers, which he calleth apostolic, by usurpation and sufferance, as is above said within this your realm or any other your dominions, shall from henceforth clearly surcease, and never more be levied, taken, perceived, nor paid to any person or persons in any manner of wise; any constitution, use, prescription, or custom to the contrary notwithstanding."

Here the demand of the payment of Peter-pence, on the part of the Pope, is plainly declared to have been a *usurpation*, and the payment of such an exaction on the part of the people of England is declared to have been a *sufferance*. Such payment was, on and after the passing of this statute, absolutely to cease.

4.

**The forbidding of the Procuration of Dispensations, etc., from Rome necessitated their Obtainment from the Ecclesiastical Authority of the Church of England.**

*By* 25 *Henry VIII. cap.* 21, *sect.* 3, *it was enacted that neither the king nor any of the subjects of his realm should*

*henceforth seek to obtain licences or dispensations from the Pope, but that all such licences and dispensations should in future be granted within the realm.*

The words of this section of the Act are :—

"And be it further enacted by the authority aforesaid, that neither your highness, your heirs and successors, kings of this realm, nor any your subjects of this your realm, nor of any other your dominions, *shall from henceforth sue to the Bishop of Rome* called the Pope, or to the See of Rome, or to any person or persons having or pretending any authority by the same, for licences, dispensations, etc., . . . which heretofore hath been and accustomed to be had and obtained at the See of Rome, . . . but that from henceforth every such licence, dispensation, etc. . . . shall be granted, had, or obtained from time to time within this your realm, and other dominions, and not elsewhere."

The dispensing powers for so long a period claimed and exercised by the Bishop of Rome in the affairs of the English Church are here declared to have been a pretended authority. This section of the statute forbade alike the king, his heirs and successors, and every subject of the realm to have recourse to the authority of Rome any longer for this purpose, and enacted that such dispensations, if obtained at all, should be obtained within the realm, and not elsewhere.

5.

**The Independence and Sufficient Authority of the Church of England in the matter of granting Licences, Dispensations, etc., recognized. Power of granting these vested in the Archbishop of Canterbury.**

*Dispensing power, etc., formerly usurped and exercised by the See of Rome in the affairs of the Church and realm of England, was transferred to the Archbishop of Canterbury for the time being, to be vested in and exercised by him, as declared by* 25 *Henry VIII. cap.* 21, *sect.* 3, *showing that it was the usurped* supremacy of Rome that

*this legislative enactment was aimed at and intended to destroy, and not the ecclesiastical supremacy of the Archbishop of Canterbury as the Ecclesiastical Head of the English Church.*

The words of the statute are:—

"The Archbishop of Canterbury, for the time being, and his successors, shall have power and authority from time to time, by their discretions, to give, grant, and dispose by an instrument under the seal of the said Archbishop, unto your majesty, and to your heirs and successors, kings of this realm, as well all manner such licences, etc., for causes not being contrary or repugnant to the Holy Scriptures and the laws of God."

The ancient dispensing power of the Church was not in itself objected to, providing the granting of such dispensations was not "contrary or repugnant to the Holy Scripture and to the law of God." That there was no intention on the part of the Crown and legislature to prejudice or curtail the ancient dispensing power of the Church when exercised within the area defined, is proved by the fact that the powers hitherto usurped by the Pope with reference to the affairs of the English Church and nation were actually transferred to, and reinvested in, the Archbishop of Canterbury, to whose office they anciently belonged. It is by virtue of this dispensing power that the Archbishop of Canterbury, as the proper ecclesiastical head of the English Church, grants, for instance, licences for marriages, etc., and also confers academical degrees, according to his discretion, upon persons whom he thinks worthy. People who think that the primary aim of Henry VIII.'s legislation was to cripple the power of the Church of England, and to prejudice her prerogatives, will see in this fact that his animus was entirely against the usurpation of the Bishop of Rome, whose usurped powers he desired to see exercised by the Archbishop of Canterbury. Moreover, in connection with this point we call special attention to the fact that the words of 26 Henry VIII. cap. 21, sect. 3, especially declare that *even the king and his successors were dependent upon the ecclesiastical functions of the Archbishop of Canterbury in granting them such dispensa-*

*tions as they might require, on the conditions specified* in the section. The words are :—

"The Archbishop of Canterbury for the time being and his successors shall have power and authority from time to time, by their discretions to give, grant, and dispense, by an instrument under the seal of the said archbishop, unto your majesty and your heirs and successors, kings of this realm, as well all manner of licences, dispensations," etc.

6.

**During voidance of Archbishopric, Dispensations, etc., to be issued by the Guardians of the Spiritualities of the Archiepiscopal See of Canterbury.**

*During the vacancy of the Archbishopric of Canterbury, dispensations, etc., were to be issued by the guardian or guardians of the See of Canterbury, and not by the Crown, showing thereby that there was no disposition to supersede the proper ecclesiastical functions appertaining to the archbishopric, and that the whole legislative provisions were expressive of the anxiety of the Crown and Parliament to secure the Church and nation against Rome.*

The words of 25 Henry VIII. cap. 21, sect. 16 are :—

"Provided also, and be it enacted by the authority aforesaid, that if it happen the See of the Archbishopric of Canterbury be void, that then all such manners of licences, etc., . . . which may be granted by virtue and authority of this Act, shall (during the vacation of the same See) be had, done, and granted under the name and seal of the guardian of the spiritualities of the said Archbishopric for the time being, according to the tenor and form of this Act, and shall be of like force, value, and effect as if they had been granted under the name and seal of the Archbishop for the time being."

The guardians of the spiritualities of a vacant Bishopric are the dean and chapter of the cathedral of the diocese. The Crown is the guardian of its temporalities.

7.

**Dispensing Powers vested in the Archbishop of Canterbury not to supersede or prejudice those exercised by other Bishops.**

*The dispensing powers hitherto usurped by the Pope, now transferred to, and in future to be vested in, and exercised by, the Archbishop of Canterbury, were in no way to supersede or to be prejudicial to the exercise of those ancient, independent, diocesan dispensing powers, which in times past had been exercised by the Archbishop of York and other Bishops of the Dioceses of the realm.*

The words in this respect are:—

"This Act shall not be prejudicial to the Archbishop of York, or to any bishop or prelate of this realm; but that they may lawfully (notwithstanding this Act) dispense in all cases in which they were wont to dispense by the common law or custom of this realm afore the making of this Act."

While transferring the dispensing power hitherto exercised by the Pope to the Archbishop of Canterbury, precautions were taken by the above provision that the ancient dispensing powers of the Archbishop of York and other diocesans, which belonged to them by the common law or custom of the realm, should not be prejudiced; thus affording another proof of the care taken, in doing away with papal power, not to cripple or prejudice that which rightly belonged by ancient usage to the bishops of the English Church in their several dioceses.

8.

**In the Rupture with Rome it was not meant thereby that the Crown or Realm of England intended to found in any sense a New Church, or even to vary from the Catholic Faith of Christendom.**

*By* 25 *Henry VIII. sect.* 19, *it is declared that neither by that Act nor anything therein contained was it to be understood that the Crown or the realm intended to vary from the Catholic faith of* Christendom, thus showing

*that the changes in the relations between Rome and the Church and realm of England were not the result of a rupture with the Catholicity of Christendom, but the result of a renunciation of usurped Roman supremacy in this country, with all the tyrannies, abuses, evil customs, and errors involved therein.*

The section sets forth :—

"Provided always that this Act, nor any thing or things therein contained, shall be hereafter interpreted or expounded, that your grace, your nobles, and subjects intend by the same to decline or vary from the congregation of Christ's Church in any things concerning the very articles of the Catholic Faith of Christendom, or in any other things declared by Holy Scripture and the Word of God, necessary for your and their salvation, but only to make an ordinance by policies necessary and convenient to repress vice, and for good conservation of this realm in peace, unity, and tranquillity," etc.

People who imagine that those who legislatively took the chief part in passing the statutes of the Reformation, regarded themselves as intentionally and deliberately setting up a new Church different from that which had so long been in the land, will here find a specific correction of their erroneous opinion. The words of this section almost seem as if they had been provided as an antidote against errors on this subject, for it is explicitly declared that nothing in the statute should be interpreted as if the king, the nobles, and subjects of the realm intended thereby "to decline or vary from the congregation of Christ's Church in any things concerning the very articles of the Catholic Faith of Christendom."

## 9.

### The Church and Realm of England safeguarded from the Restoration of Rome's Jurisdiction by Penalties of Præmunire.

*By* 25 *Henry VIII. sect.* 22, *penalties were attached to any attempts to seek dispensations from the Bishop of Rome or from any one acting on his behalf, the whole drift and object of the Statute* 25 *Henry VIII.* being to safeguard

*the independence of the Church and realm as against the asserted and sometime usurped jurisdiction of Rome.*

The Act says:—

"If any person or persons, subject or resiant within this realm, or within any of the King's dominions, at any time hereafter sue to the Court of Rome, or the See of Rome, or to any person claiming to have his authority by the same, for any licence, faculty, dispensation, or other thing or things hereafter to be obtained at Rome or the See of Rome, or from any claiming authority by the same, for any of the causes above mentioned in this Act, or for any other causes that may be granted by authority of this Act, or attempt or do any thing or things contrary to this Act, or maintain, allow, admit, or obey any manner of censures, excommunications, interdictions, or any other process from Rome, of what name or nature soever it may be, to the derogation or let of the execution of this Act, or of any thing or things to be done by reason of the said Act; that then every such person or persons so doing, offending, and being thereof convict, their aiders, counsellors, and abettors, shall incur and run into the pain, loss, and penalty comprised and specified in the Act of provision and *præmunire*."

The penalty of præmunire attaching to the statute of Edward III. involves the liability of those who have incurred it to be put out of the protection of the Crown, attached by their bodies, and imprisoned during life, with the loss of their goods and chattels. This terrible penalty, provided by 25 Edward III. stat. 6, was threatened with a view of restraining subjects of the realm from suing to the court of Rome for benefices, etc., and is in the present day by many erroneously thought to attach only to ecclesiastical offences committed by ecclesiastical persons who infringe upon the rights of the Crown, but by later statutes the like penalty was attached to those who denied the King's supremacy, or asserted the Pope's authority, or refused the oath of supremacy, and to seditious talkers against the inheritance of the Crown, and such as affirmed the king or queen to be a heretic. They were also liable to it, by 13 Charles II., who affirmed that the Parliament of 1640 was not dissolved, and maintained that there was any obligation in oath or covenant to endeavour to bring about a change in Church or State, or that the Houses of Parliament had any legislative authority without the Crown.

10.

## The Realm consists of Church and State.

*The division of the Body Politic into the Spirituality and Temporality was recognized and set forth by* 24 *Henry VIII. cap.* 12, *sect.* 1.

The section commences thus:—

"Where by DIVERS SUNDRY OLD AUTHENTIC HISTORIES AND CHRONICLES IT IS MANIFESTLY DECLARED and expressed THAT THIS REALM OF ENGLAND IS AN EMPIRE, and so hath been accepted in the world, governed by one supreme head and king, having the dignity and royal estate of the imperial crown of the same; unto whom A BODY POLITIC, compact of all sorts and degrees of people, DIVIDED IN TERMS, AND BY NAMES OF SPIRITUALITY AND TEMPORALITY, been bounden and owen to bear next to God a natural and humble obedience."

It is an interesting point to observe in this section, that the testimony of ancient chronicles and records as to historical facts was taken into account by the Reformation legislation, that such testimony was kept in view in effecting the changes in Church and State which were then made, and that the important statutes which were then passed were founded upon and interwoven with the rehearsal of history, were based upon it, and were alleged to be in accordance with it. And it is to be noted that the same "divers sundry old authentic histories and chronicles" which, the statute alleges, manifestly declared the realm of England to be an empire, declared also that this same Empire of England was divided by two names or parts, the Spirituality and the Temporality, or, in other words, Church and State; and it is worthy of remark that just as the honour of God and of Holy Church stands first in the preambles of the royal charters, so in later statutes that part of the realm called the Spirituality is always mentioned before the Temporality. In Acts of Parliament the Lords Spiritual are mentioned before the Lords Temporal, and in the very phraseology of modern times—"Church and State"—the same idea of the primary

status of the Church is expressed. The very order of these words in the phrases in which they occur contains a history in itself as to the ancient status of the Church.

II.

**The Identity, Continuity, Independence, Sufficiency, and Plenary Power of the Pre-reformation and Post-reformation Church of England declared.**

*The Church of England is recognized by 24 Henry VIII. cap. 12, sect. 1, as a separate spiritual body within the realm, having and exercising spiritual jurisdiction independent of the civil power in all matters coming within the area of her cognizance.*

Speaking of the Church, the Act says :—

"The body spiritual whereof having power, when any cause of the law divine happened to come in question, or of spiritual learning, then it was declared, interpreted, and shewed by that part of the said body politic, called the Spirituality, now being usually called the English Church, which always hath been reputed, and also found of that sort, that *both for knowledge, integrity, and sufficiency of number, it hath been always thought, and is also at this hour sufficient and meet of itself without the intermeddling of any exterior person or persons*, to declare and determine all such doubts, and to administer all such offices and duties as to their rooms spiritual doth appertain; for the due administration whereof, and to keep them from corruption and sinister affection, THE KING'S MOST NOBLE PROGENITORS, AND THE ANTECESSORS OF THE NOBLES OF THIS REALM, HAVE SUFFICIENTLY ENDOWED THE SAID CHURCH, both with honor and possessions."

There are two points in this statute to which special attention may be called :—

1st. The asserted independency and competency of the Church of England to settle all questions in her own communion as they arise, "without the intermeddling of any exterior person or persons."

2nd. The fact that this Statute sets forth that the Church was endowed not by the State nor by the Crown, but by the king's progenitors or ancestors, and the ancestors of the nobles of the realm. The Liberation Society's idea of the Church being endowed by the State or Parliament has no foundation here.

12.

## The Separate Jurisdictions of Church and State not Antagonistic, but Harmonious.

*By 24 Henry VIII. cap. 12, sect. 1, the respective provinces within which the separate jurisdictions of Church and State were exercised are described, and they are there set forth as not being antagonistic, but as helpful to each other.*

The section says:—

"The laws temporal for trials of property of lands and goods, and for the conservation of the people of this realm in unity and peace, without rapine or spoil, was, and yet is, administered, adjudged, and executed by sundry judges and ministers of the other part of the said body politic called the Temporality; and both their authorities and jurisdictions do conjoin together in the due administration of justice, the one to help the other."

The existence and exercise of two separate jurisdictions within the State—the ecclesiastical and the civil—running on parallel lines, dealing with different questions of law and justice, and not coming into collision or antagonism, constitute the ideal of the kind of relations that ought to exist between Church and State. This is the ideal that, throughout the history of the English Church and nation, the authorities in both have endeavoured to realize. From misunderstandings, and temptations to try to overreach each other's separate rights and jurisdiction, there have at times unfortunately been collisions between them; but such collisions are the accidental and avoidable rather than the necessary and unavoidable results of the relations between Church and State. The words of the above section are justly and authoritatively descriptive of the harmonious character of the relations which may and should exist between the laws temporal and spiritual, and the courts ecclesiastical and civil, that "*both their authorities and jurisdictions do conjoin in the due administration of justice, the one to help the other.*"

13.

**Rome's Exactions of Large Sums of Money on account of Dispensations, etc., declared to be a Derogation of the Authority of the Crown, and contrary to Right and Conscience.**

*Exactions of large sums of money by the Pope on account of dispensations, and other abuses, were declared to be intolerable by* 25 *Henry VIII. cap.* 21.

The words are :—

"Your obedient and faithful subjects, the commons of this your present Parliament assembled, by your most dread commandment, that where your subjects of this realm, and of other countries and dominions being under your obeisance, by many years past have been and yet be greatly decayed and impoverished by such intolerable exactions of great sums of money as have been claimed and taken and yet continually be claimed and taken out of this your realm, and other your said countries and dominions, by the Bishop of Rome, called the Pope, and the See of Rome; . . . *wherein the Bishop of Rome aforesaid hath not only to be blamed for his usurpation in the premises, but also for his abusing and beguiling your subjects*, pretending and persuading that he hath power to dispense with all human laws, uses, and customs of all realms, in all causes of which be called spiritual which matter hath been usurped and practised by him and his predecessors for many years, in great derogation of your imperial crown and authority royal, contrary to right and conscience."

It is too often overlooked or forgotten that the object of the various statutes passed in legalizing the Reformation was as much to free the Crown and realm from the usurped jurisdiction, exactions, and extortions of Rome, as it was to liberate the Church from these; for, as is declared in the words of the above section, the Bishop of Rome pretended that he had power to dispense with all human laws, uses, and customs, of all realms, in causes in which he could even constructively regard them as bearing directly or indirectly upon cases ecclesiastical. Under the exercise of this papal lawlessness not only the realm of England, but other realms were subject to grievous arbitrariness and tyranny. In fact, in England the power of the Crown was by papal usurpation to a great extent inoperative, so that

the words of the statute might well be addressed to Henry VIII. concerning usurped papal supremacy, that it was "in great derogation of your Imperial Crown and authority royal, contrary to right and conscience."

## 14.

### The Aim of all Legislation Past and Present declared to be to keep the Church and Realm of England Free from the Usurpation of Foreign Jurisdiction.

*Encroachments and usurpations of the See of Rome were described and protested against by* 24 *Henry VIII. cap.* 12, *sect.* 2, *wherein it was declared that the whole course of legislation in times past had been to preserve the Church and realm of England independent of all foreign intrusion or interference in their concerns.*

The section runs :—

"Whereas the King, his most noble progenitors, and the nobility and commons of this said realm, at divers and sundry Parliaments as well in the time of King Edward the First, Edward the Third, Richard the Second, Henry the Fourth, and other noble kings of this realm, made sundry ordinances, laws, statutes, and provisions for the entire and sure conservation of the prerogatives, liberties, and pre-eminences of the said imperial crown of this realm, and of the jurisdiction spiritual and temporal of the same, to keep it from the annoyance as well of the See of Rome, as from the authority of other foreign potentates, attempting the diminution or violation thereof."

There is in the above section a rehearsal of the various provisions which at different periods of English history have been vigilantly made to secure the Church and realm of England against the intrusion of foreign jurisdiction and interference. There is an enumeration of references to the various reigns in which specific precautions were taken to build up, consolidate, and safeguard both Church and realm against any foreign power or influence that would seek to in any way prejudice their respective independence. In fact, the more closely the wording of the Reformation statutes is considered the nearer shall we get to the real

meaning of that event. It will be seen that all legislation of that period was regarded, by those who were the instruments in bringing it about, simply as *recovering and restoring to both Church and State* their separate ancient prerogatives and privileges which they had together enjoyed long before Roman aggression on either the ecclesiastical or the civil power was admitted within these realms. So it will be seen that the Reformation was not a new creation, either as to Church or State, but a restoration of the ancient rights and privileges of both, so far as the usurped supremacy of Rome and all foreign interference were concerned.

15.

**The Identity and Continuity of the Church of England declared not to be affected by her breaking off Relations with Rome.**

*The rupture of the relations between Rome and the Church and realm of England was not to be regarded in any way as affecting the independent existence and unbroken continuity of the Church of England, nor in consequence thereof were the Bishops and Clergy to allow of any interruption in the execution of their spiritual offices and in their administration of the Sacraments, as set forth in* 24 *Henry VIII. cap.* 12, *sect.* 2.

The Act declares:—

"All the spiritual prelates, pastors, ministers, and curates within this realm, and the dominions of the same, shall and may use, minister, execute, and do, or cause to be used, ministered, executed and done, all sacraments, sacramentals, divine services, and all other things within the said realm and dominions, unto all the subjects of the same, as Catholic and Christian men owen to do, any former citations, processes, inhibitions, suspensions, interdictions, excommunications, or appeals for or touching the causes aforesaid, from or to the See of Rome, or any other foreign prince or foreign courts, to the let or contrary thereof in any wise notwithstanding."

If any explicit testimony were wanting to prove beyond all doubt that the legislature at the time of the Reformation *did not regard* any measures that it passed as breaking the

continuity of the existence of the English Church, it is supplied by the words of this section. They clearly show that notwithstanding the rupture of the relations with Rome, and the very important changes arising out of that rupture, the Church was to go on just as she was before. She was to continue exercising her ecclesiastical ministrations and attending to her spiritual business on the assumption that nothing affecting her identity and organization had happened. In whatever sense any individuals at the time of the Reformation may have regarded the breaking off relations with Rome as affecting the historical identity of the Church, it is certain that those who were instrumental in breaking off such relations did not regard their rupture as having the slightest bearing upon the identity and unbroken continuity of the English Church.

16.

**All Ecclesiastical Persons refusing to exercise their Ministerial Functions through Fear of Rome were to be punished.**

*In the event of any spiritual persons refusing to exercise their functions because of want of authority from the See of Rome, or from fear of the Pope's excommunication, they were to be punished with one year's imprisonment and fine, and ransomed at the king's pleasure, as declared by sect.* 3 *of* 24 *Henry VIII. cap.* 12.

The words are:—

"If any of the said spiritual persons by the occasion of the said fulminations, or any of the same interdictions, censures, inhibitions, excommunications, appeals, suspensions, summons, or other foreign citations for the causes aforesaid, or for any of them, do at any time hereafter refuse to minister, or cause to be ministered, the said sacraments, and sacramentals, or other divine services, in form as is aforesaid, shall for every such time or times that they or any of them do refuse so to do, or cause to be done, have one year's imprisonment, and to make fine and ransom at the King's pleasure."

According to these words, precautions were so far taken as to ensure that no even constructive show of legislative sanction should be quoted to give even the semblance of

approval to the idea that by the rupture of relations with Rome the Church and ministry were changed, seeing that by this section severe penalties were attached to any possible refusal on the part of the clergy of their ministrations which by the laws of the Church they were bound to perform, on the ground that the changes inaugurated by the events of the Reformation justified them in so doing.

17.

**The Ancient Powers of Jurisdiction of the Archbishop of Canterbury were not to be prejudiced by any Changes legislatively enacted.**

*By* 24 *Henry VIII. cap.* 12, *sect.* 8, *the Archbishop of Canterbury is recognized and declared to be possessed of the same ecclesiastical prerogatives in all matters of appeal to him as he had been accustomed and used to have heretofore; so that, while this Statute abrogated the usurped powers of the Pope, it scrupulously left the ancient prerogatives of the Archbishop of Canterbury intact.*

The following will show this:—

"All and every matter, cause and contention now depending, or that hereafter shall be commenced by any of the King's subjects or residants for any of the causes aforesaid, before any of the said archbishops, that then the same matter or matters, contention or contentions, shall be before the same archbishops, where the said matter, cause, or process shall be so commenced, definitely determined, decreed, or adjudged, without any appeal, provocation, or other foreign process out of this realm, to be sued to the let or derogation of the said judgment, sentence, or decree, otherwise than is by this Act limited and appointed, *saving always the prerogative of the Archbishop and Church of Canterbury*, in all the aforesaid causes of appeals, to him and to his successors to be sued within this realm in such and like wise as they have been accustomed and used to have heretofore."

Here again is another proof that the object of the Reformation legislation was not to lessen or cripple the powers possessed by the Archbishop of Canterbury as the ecclesiastical head of the English Church, but to do away with all the usurped powers of Rome; for while Roman

usurpation is sweepingly abolished, special precautions are taken to ensure the continuance intact of all the powers possessed by the Archbishop of Canterbury, which is proved by the words, "saving always the prerogative of the Archbishop and Church of Canterbury," etc.

18.

**Undue Restraints and Hindrances to the Church resulting from the Act of Submission were not the Aim or Design of that Act.**

*Whatever may have been the subsequent mischief to the Church resulting from the Act of Submission, the terms of the Statute clearly show that it was intended as a safeguard against Rome, and not as an act of humiliation to the Church of England. The chief concern expressed in the enactment* 25 *Henry VIII. cap.* 19, *was that, in the changed state of things, Convocation should not legislatively meet without the sanction of the Crown; that all the existing constitutions and canons of the Church should be revised so as to bring them into accord with the laws of God, and to make them consonant with the law of the realm.*

The Statute runs as follows:—

"Where the King's humble and obedient subjects, the clergy of this realm of England, have not only acknowledged according to the truth, that the Convocation of the same clergy *is, always hath been, and ought to be assembled only by the King's writ*, but always submitting themselves to the King's majesty, have promised *in verbo sacerdotii* that they will never from henceforth presume to attempt, allege, claim, or put in use, or enact, promulge or execute, any new canons, constitutions, ordinance, provincial or other, or by whatsoever other name they shall be called, in the Convocation, UNLESS THE KING'S MOST ROYAL ASSENT AND LICENCE MAY TO THEM BE HAD, TO MAKE, PROMULGE, AND EXECUTE THE SAME, and that his Majesty do give his most royal assent and authority in that behalf; and where divers constitutions or ordinances, and canons provincial and synodal, which heretofore have been enacted, and be thought *not only to be much prejudicial to the King's prerogative royal and repugnant to the laws and statutes of this realm*, but also overmuch onerous to his Highness and his subjects; the said clergy hath

most humbly besought the King's highness that the said constitutions and canons be committed to the examination and judgment of his highness, and of two and thirty persons of the King's subjects, whereof sixteen to be of the upper and nether House of Parliament of the temporality, and the other sixteen to be of the clergy of this realm, and all the said two and thirty persons to be chosen and appointed by the King's majesty; and *that such of the said constitutions and canons as shall be thought and determined by the* said two and thirty persons, or the more part of them, to be abrogated and annulled, shall be abolite, and made of no value accordingly; and each other of the same constitutions and canons as by the said two and thirty, or the more part of them, shall be approved to stand with the law of God, and consonant to the law of this realm, shall stand in their full strength and power."

Without attempting to consider the righteousness or expediency of the Act of Submission itself, passed as it was under peculiar circumstances and exigencies at a critical juncture of England's history, and without entering into the consideration of the full bearing of the prejudicial influence which this Act has ever since exercised upon the English Church (which we fully admit), in restraining her liberties of deliberation and legislation, we may remark, first, that the Act of Submission was but an exaggerated form of a claim repeatedly made in the history of the Christian Church by the civil power, to permit and regulate the convening and deliberations of ecclesiastical assemblies.[1] Secondly, it was a power which was distinctly claimed and exercised by the Crown in the earlier history of England, and which, as the Bishop of Chester says, entirely apart from the Act of Submission, might have been exercised by virtue of an old royal prerogative. National churches in other countries are more or less practically subject to such restraint as that to which the Church of England is subject under the provisions of this Act. Thirdly, in the established Church of Scotland, as we have in another section pointed out, the presence of the Lord Commissioner, representing the Crown, is essential to the legal constitution of its General Assembly. Fourthly, in the case of even the "free" religious bodies in France, they cannot meet for deliberation,

[1] See Gibbon's "Roman Empire," chap. xv. and xvi.

nor pass measures, without the sanction of the civil power; while with reference to the religious bodies in England who boast themselves as free from such restraints as are imposed upon the Church of England by the provisions of the Act of Submission, it is to be borne in mind that they were not in existence when the Act of Submission was passed, or undoubtedly the spirit and temper of not only Henry VIII., but of the times in which he lived, would have brought them under this provision in a very stringent manner. We may deprecate the restraints imposed upon the Church by the Act of Submission, and while wishing to see such restraints, compatibly with the rights of the Crown, modified, it will be seen that such restraints are not necessarily the outcome of the union between Church and State. This is the point which we wish to make clear. Even the abolition of that union would not in all cases be a secure safeguard against the imposition of such restraints on a disestablished Church by a possibly imperious and tyrannical civil power. It must be remembered that it is not very long since in history that the Nonconforming communions, boasting themselves free from State control, were subjected to the cruelly oppressive provisions of the Conventicle Act, the Five Mile Act, the Test and Corporation Act, and other restraining provisions of kindred measures. The imposition of these restraints could not in any way have been the result of their union with the State, seeing such union did not exist. What guarantee, then, have we that even if the Church of England were disestablished, disendowed, and disconnected in every way from all union with the State, that a possibly unbelieving civil power in the future might not impose upon her far greater restraints than those which are the outcome of the Act of Submission?

In drawing attention to all these points as worthy of consideration, we are not for a moment seeking to lessen the serious evil from which the Church is suffering from not having more legislative liberty. What we wish to point out is, that the proper way for the Church to regain any of her lost liberties is by a modification of the statutes depriving

her of them, and not by her abolition as a National Church, which, as we have stated, would be no effectual guarantee against the imposition of like restrictions.

Whatever powers of restraint the Crown may exercise over the Church by the terms of the Act of Submission, it is a most important point to bear in mind that they are only and exclusively powers of *restraint*, and that they give the Crown no power to initiate legislation. The Act of Submission does not give the Crown any power to draw up and impose upon the Church or clergy any creeds, canons, or constitutions, etc.

19.

**The Supreme Headship of the Church was affirmed against the Pope, and not against the Archbishop of Canterbury.**

*The assumption by Henry VIII. of the title of "Supreme head on earth" of the Church of England, was declared by 26 Henry VIII. cap. 1 to be but a legislative resumption of that position which had been anciently claimed by the Crown of England. Whatever was intended to be included and involved in it, the words of the Statute plainly show that it was affirmed as against the assumed headship of the See of Rome.*

The Statute enacted :—

"By authority of this present Parliament, that the King our sovereign lord, his heirs and successors, kings of this realm, shall be taken, accepted, and reputed the only supreme head on earth of the Church of England, called *Anglicana ecclesia*, and shall have and enjoy, annexed and united to the imperial crown of this realm, as well the title and style thereof as all honours, dignities, pre-eminences, jurisdictions, privileges, authorities, immunities, profits, and commodities to the said dignity of supreme head of the same church belonging and appertaining."

The powers claimed for the Crown, by the Act of Supremacy, over the affairs of the English Church are not more nor greater than are claimed for the Crown by the same statute over the affairs pertaining to persons and causes in the whole realm. By this statute the sovereign *does not claim* or acquire new powers or prerogatives, but

simply resumes possession, by claims made in an exaggerated form, of the ancient prerogatives of the Crown of England. Whatever controlling or disposing power is involved in royal supremacy over the affairs of the Church of England, the same power extends to all religious bodies in the land.

The objectionable phrase "Supreme Head of the Church," as contained in this section, was done away with by Queen Elizabeth, who substituted "Supreme Governor" in its stead; so that such a thing as supreme headship of the Church as claimed by Henry VIII. does not at present exist. The sovereign is now legally recognized as supreme governor over all ecclesiastical, as well as temporal things and causes in the realm.

Whatever powers royal supremacy may be regarded as comprehending, it is certain, as everybody knows who has the slightest intelligence on ecclesiastical affairs, that it is not in the power of the sovereign to intrude upon nor exercise any spiritual office in the Church, nor to do anything that properly appertains to ecclesiastical persons. The sovereign cannot arbitrarily initiate nor impose a creed, a canon, etc., which has not been accepted by the Church and legally sanctioned; and if such powers were attempted to be exercised by the Crown, such an attempt would undoubtedly bring about as great a rupture with the State as in the past of England's history, the exercise of arbitrary powers on the part of the Pope brought about with the See of Rome. That all such authority and power over the spiritual and ecclesiastical affairs of the Church is not only not claimed but is repudiated by the sovereign is plainly set forth in the 37th Article.

### 20.

### Royal Supremacy asserted over the Realm as well as the Church.

*That the Crown and Parliament felt it as necessary to assert the supreme headship of the sovereign over the realm as against the usurped authority of Rome*, as it was deemed

*urgent at the then crisis of England's history to assert it over the Church, is proved by the terms of* 28 *Henry VIII. cap.* 10.

The Act runs :—

"Forasmuch as notwithstanding the good and wholesome laws, ordinances, and statutes heretofore made, enacted, and established by the King's highness, our most gracious sovereign lord, and by the whole consent of his High Court of Parliament, *for the extirpation, abolition, and extinguishment out of this realm, and other his grace's dominions, seigniories, and countries, of the pretended power, and usurped authority of the Bishop of Rome*, by some called the Pope, used within the same, or elsewhere concerning the same realm, dominions, seigniories, or countries, which did obfuscate and wrest God's holy word and testament a long season from the spiritual and true meaning thereof, to his worldly and carnal affections, as pomp, glory, avarice, ambition, and tyranny, covering and shadowing the same with his human and politic devices, traditions, and inventions, set forth to promote and establish his only dominion, both upon the souls and also the bodies and goods of all Christian people, excluding Christ out of His kingdom and rule of man's soul, as much as he may, and all other temporal kings and princes out of their dominions, which they ought to have by God's law, upon the bodies and goods of their subjects; WHEREBY HE DID NOT ONLY ROB THE KING'S MAJESTY, BEING ONLY THE SUPREME HEAD OF HIS REALM OF ENGLAND IMMEDIATELY UNDER GOD, OF HIS HONOUR, RIGHT, AND PRE-EMINENCE, DUE UNTO HIM BY THE LAW OF GOD, BUT SPOILED THIS HIS REALM YEARLY OF INNUMERABLE TREASURE, and with the loss of the same deceived the King's loving and obedient subjects, persuading them by his laws, bulls, and other his deceivable means, such dreams, vanities, and fantasies as by the same many of them were seduced and conveyed unto superstitious and erroneous opinions; so that the King's majesty, the lords spiritual and temporal, and the commons of this realm, being overwearied and fatigued with the experience of the infinite abominations and mischiefs, proceeding of his impostures, and craftily colouring of his deceits, to the great damage of souls, bodies, and goods, were forced, of necessity, for the public weal of this realm, to exclude that foreign pretended power, jurisdiction, and authority, used and usurped within this realm, and to devise such remedies for their relief of their same, as doth not only redound to the honour of God, the high praise and advancement of the King's majesty and of his realm, but also to the great and inestimable utility of the same."

In accordance with our statement in a preceding section, that it was as much the object of the Reformation statutes to free the realm of England from the usurped dominion of

the Pope as it was to liberate the Church from his arbitrary supremacy, and that the Reformation, therefore, was at the same time the result of a struggle for political as well as religious independence and freedom, we call attention to the strong language of prohibition and indictment used in the above section against the Bishop of Rome, not on the grounds of his usurped supremacy in mere ecclesiastical affairs, but in the very essential matters which had immediately to do with the Crown and realm.

21.

### Causes of Repeated Claim of Royal Supremacy.

*The persistent and reiterated assertion of the king's claim to supreme headship over the Church and realm, betraying almost a morbid idea on the subject, was undoubtedly owing to a fear and dread on the part of Henry VIII. that his subjects might in at least some secret ways return to their Roman allegiance. This is clearly indicated by the state of things described in the Statute.*

The Act says :—

"Notwithstanding the said wholesome laws so made, and heretofore established, yet it is common to the knowledge of the King's highness, and also to divers and many his loving, faithful, and obedient subjects, how that divers seditious and contentious persons, being imps of the said Bishop of Rome and his See, and in heart members of his pretended monarchy, do in corners and elsewhere, as they dare whisper, inculcate, preach, and persuade, and from time to time instil into the ears and heads of the poor, simple, and unlettered people, the advancement and continuance of the said Bishop's feigned and pretended authority, pretending the same to have his ground and original of God's law, whereby the opinions of many be suspended, their judgments corrupted and deceived, and diversity in opinions augmented and increased, to the great displeasure of Almighty God, the high discontentation of our now most dread sovereign lord, and the interruption of the unity, love, charity, concord, and agreement that ought to be in a Christian region and congregation."

Even when good or bad revolutionary laws are the result of the aggregate expression of public opinion, it is no easy

matter to get all people to agree with them, to be satisfied with them, and to render loyal obedience to them. So at the period of the Reformation there were those who, notwithstanding the "wholesome laws made and heretofore established," preferred the old state of things, and did not care to be disturbed in their enjoyment of it. Little as they liked the Pope, they liked Henry still less, and anxious as they may have been to free the Church from papal supremacy, they did not care that this liberty should come to them by a transference of the supremacy to the king. Such persons would naturally be suspected, distrusted, and vigilantly watched, lest they should do anything to bring back the Pope's supremacy, hence such statements as those in the above section.

22.

**Penalties for denying Royal Supremacy.**

*To advocate or maintain the supremacy of the Pope as against the Royal Supremacy was punishable with the pains and penalties præmunire.*

The Statute goes on to enact that any person who

"shall by writing, cyphering, printing, preaching, or teaching, deed or act, obstinately or maliciously, hold or stand with, to extol, set forth, maintain, or defend the authority, jurisdiction, and power of the Bishop of Rome or of his See, heretofore claimed, used, or usurped within this realm, or in any dominion or country being of, within, or under the King's power or obeisance, . . . being thereof lawfully convicted, according to the laws of this realm, for every such default and offence shall incur and run into the dangers, penalties, pains, and forfeitures, ordained and provided by the Statute of provision and præmunire."

23.

**The Claim of the King to Supremacy over the Church was not prejudicial or hurtful to her Ministrations.**

*Even in the enactment containing the most absolute assertion of the Royal Supremacy over the Church and realm, the saving clause was appended to it that neither the Act*

*itself nor anything comprised in it should in any wise be prejudicial to the Church of England.*

The clause is:—

"Provided always, and be it enacted, that this Act, nor any thing or things in the same mentioned, rehearsed, or comprised, be in any wise prejudicial, hurtful, or derogatory to the ceremonies, uses, and other laudable and politic ordinances, for a tranquillity, discipline, concord, devotion, unity, and decent order HERETOFORE IN THE CHURCH OF ENGLAND, used, instituted, taken, and accepted, nor to any person or persons accordingly using the same or any of them."

This—as we have frequently asserted, tried to make clear, and brought what we consider conclusive evidence to prove—was that to which all the Reformation legislation was to be subordinate, and with which it was to be consistent, "Provided always" that nothing in the Act of Supremacy was to be prejudicial, hurtful, or derogatory to the concerns of "*the Church of England.*" This was the saving clause by which the interests of the Church of England were intended to be safeguarded and preserved inviolate. It is not our object to prove that legislation in this period of ecclesiastical and political turmoil and panic, was always consistent with its specially professed object, but to show that if in any case it inflicted injury upon the Church of England as the National Church in the process of freeing her and the realm from the supremacy of Rome, that was not the object sought by such legislation, but was its unintentional and incidental result, and that this being so, there is greater reason why such legislation should be from time to time altered, where necessary, to meet the growing wants and widely extending agencies of the Church.

## 24.

### Even the Spoliation of the Church by Henry VIII. took place upon pretended Religious Grounds.

*In his wholesale spoliation of the Religious Houses, Henry VIII. had to accomplish this sacrilegious work under the plea that he was doing it for the commendable objects of Church improvement and* Church extension. How-

*ever hypocritical his profession may have been, yet it stands on record, by the 31st of his reign, cap. 9, that these were the objects which he had at heart, and the founding and endowing of new Sees by the property which he took from Religious Houses formed his only excuse for his appointment of Bishops by Letters Patent.* [*In the history of England there is no precedent for the proposal of the Liberation Society to rob the Church for the purpose of devoting her property to secular uses.*]

The statute declares :—

"Forasmuch as it is not unknown the slothful and ungodly life which hath been used among all those sorts which have borne the name of religious folk, and to the intent that from henceforth any of them might be turned to better use, as hereafter shall follow, whereby God's words might the better be set forth, children brought up in learning, clerks nourished in the universities, old servants decayed to have livings, almshouses of poor folk to be sustained in, readers of Greek, Hebrew, and Latin to have good stipend, daily alms to be ministered, mending of highways, exhibition for ministers of the Church. It is thought, therefore, unto the King's highness most expedient and necessary that more bishoprics, collegial and cathedral churches, shall be established instead of these aforesaid religious houses, within the foundation whereof these other titles afore rehearsed shall be established; be it therefore enacted by this present Parliament that his highness shall have full power and authority from time to time to declare and nominate by his letters patent or other writings, to be made under his great seal, such number of bishops, such number of cities, sees for bishops, cathedral churches and dioceses, by metes and bounds, for the exercise and ministration of their episcopal offices and administration, as shall appertain, and to endow them with such possessions, after such a manner, form, and condition, as to his most excellent wisdom shall be thought necessary and convenient."

## 25.

## Philip and Mary repealed all Legislative Enactments made against Rome.

*Repeal of all Statutes, articles, and provisions made against the supremacy and spiritual jurisdiction of the See of Rome, since the twentieth year of Henry VIII.*

By statute 1 & 2 of the reign of Philip and Mary, cap. 8, intituled "An Act repealing all articles and provisions made

against the See Apostolic of Rome since the twentieth year of Henry VIII.," all statutes against the See of Rome were repealed, and much false doctrine was declared to have been preached and written since the twentieth year of Henry VIII. Cardinal Pole, so it was set forth in the statute, was sent from Rome to call the realm into the right way from whence it had strayed. The lords spiritual and temporal and commons assembled in Parliament, supplicated the king and queen to be the means of reducing them into the Catholic Church. A repeal was made of all statutes against the supremacy of the See Apostolic which had been passed since the time of schism. Cardinal Pole was fully invested with dispensing power, and it was declared that the title of Supreme Head of the Church could never be justly attributed to any king or governor, and writs and letters were authorized to be in the name of the Crown without the title of Supreme Head of the Church, and might be kept and pleaded as if they had contained that designation. Bulls, dispensations, and licences from Rome were authorized to be issued and put in execution. The Pope and See Apostolic were restored to the authority they had, and the spiritual jurisdiction of the bishops of the realm was declared to be restored to the same as it was before its abolition by Henry VIII., and the whole realm of England was declared in the following terms to be reconciled to the body of Christ's Church :—

"And forasmuch as after this reconciliation and unity of this noble realm to the body of Christ's Church, it is to be trusted that, by the abundance of God's mercy and grace, devotion shall increase and grow in the hearts of many the subjects of this realm, with desire to give and bestow their worldly possessions for the resuscitation of alms, prayer, and example of good life in this realm, to the intent such godly motions and purposes should be advanced."

26.

## Elizabeth finally abolishes the Supremacy and Jurisdiction of Rome.

*Papal supremacy, and the spiritual jurisdiction of the See of Rome finally abolished by Elizabeth, and royal supremacy re-established by* 1 *Elizabeth, cap.* 1.

The words are:—

"No foreign prince, person, prelate, state, or potentate, spiritual or temporal, shall at any time after the last day of this session of Parliament, use, enjoy, or exercise any manner of power, jurisdiction, superiority, authority, pre-eminence, or privilege, spiritual or ecclesiastical, within this realm, or within any other your Majesty's dominions or countries that now be, or hereafter shall be, but from henceforth the same shall be clearly abolished out of this realm, and all other your highness's dominions for ever; any statute, ordinance, custom, constitutions, or any other matter or cause whatsoever to the contrary in any wise notwithstanding."

27.

## The True Purport and Tenor of the Statutes.

The quotations from the statutes which we have given under their several headings in the preceding pages, may be taken as fairly descriptive of the principal changes which took place in the relations between Rome and the Church and realm of England at the Reformation.

Neither in these sections from the statutes nor in the whole contents of the enactments from which they are taken, is there anything to show that any of these measures had their origin in the king's jealousy of the power and influence of the English Church, in any animus against her, or in any desire on the part of the Crown, for the Church's own sake, or because of anything she had done, to usurp any authority over her in spiritual or ecclesiastical matters, to circumscribe her liberty, or to restrain her freedom of organization and action in her own concerns.

Putting altogether aside any discussion upon the

character of Henry VIII., or the personal and domestic motives which led him to bring about an ecclesiastical and national rupture with Rome, as irrelevant to the point and purpose of our argument, we have simply to deal with the facts as they took place in the history of the Church and nation, and as we find them legislatively described in the statutes, and on these grounds we confidently affirm that animus against Rome, a desire to throw off the restraints of Rome, a determination to put an end to the usurped supremacy of Rome in national matters of both Church and State, a mortal fear and dread upon the part of the king and the nobles and great men of the realm, almost amounting to a paralyzing panic, led to all the legislation in the shape of the restraint of appeals to Rome, the assertion of the royal supremacy, and the Act of Submission of the clergy.

All these statutes, now popularly but most erroneously regarded as if they had been so many measures primarily aimed at the destruction of the independence and liberty of the English Church, were, by Henry VIII. and those who co-operated with him in these matters, really and solely intended as blows struck at the intrusive jurisdiction of Rome in the affairs of the English Church and State, and the Pope's usurped supremacy over both.

That the Church of England in herself received more or less damage from these measures, no candid Churchman—reviewing the history of the Church since the Reformation—would seek to deny, but indeed would readily admit. All this, however, was uncontemplated and undesigned injury to the Church, following in the train of measures which, as we have stated, were levelled against Rome, and not against the national Church of this country, whose rights, liberties, and privileges they professed to vindicate, and to guard against the tyrannical interference of Rome.

The Church in after years was herself to blame in not watching and studying the historical times and seasons, and in not seeing, in the altered circumstances of the nation and of her own constitution, life, and work, reasons for modifications of enactments concerning her, such as the Acts of

Supremacy and Submission, Acts which were based upon historical emergencies and impending perils and dangers to the Church and nation which have long since passed away.

If the Toleration Act, the Roman Catholic Emancipation Act, the Act repealing the Test and Corporation Act and other statutes were passed to do away with restrictive and oppressive measures which had been enacted against Nonconformists in circumstances of national panic, surely the time has come when any measure which can be shown to press unfairly and hardly upon the Church, ought to be, if not repealed, considerably modified, seeing that the reasons which led to these enactments of the legislature have not only long since passed away, but are not likely to reappear in the history of the country.

## 28.

### Nonconformist Reciprocity.

For many years past, Liberal Churchmen—laymen, clergy, and statesmen—have been engaged in the work of co-operating with Nonconformists in united endeavours, in and out of Parliament, by legislation to repeal every enactment which inflicted a civil or religious disability or grievance upon Dissenters. And they have succeeded in not only removing from the statute-book almost every such disability and grievance as the foregoing chapter bears witness to, but they have obtained for dissenting communities and their ministers equal rights and privileges, until no grievances remain even to political Dissenters but the existence of the Church herself. It might reasonably have been supposed, out of pure gratitude to Liberal Churchmen, Nonconformists who have so largely benefited by the generous efforts of Churchmen in this behalf, would in their turn have gladly co-operated with Churchmen in their efforts to regain for the Church some of her lapsed liberties which in past times of national religious panic were incidentally taken from her by enactments by the Crown and Parliament, not aimed

directly against the Church of England herself as a national Church, but to guard and to secure the realm against the usurped intrusion and jurisdiction of Rome in the affairs of the Church and kingdom. We refer especially to some of the direct and indirect consequences to the Church of the Act of Submission, the provisions of which were never intended to interfere with the constitutional legislative liberties of Convocation, except as safeguards against a return to the Roman allegiance, and a re-acknowledgment of the Papal Supremacy, and the enactment by Convocation of canons and constitutions prejudicial and derogatory to the prerogatives of the Crown and the safety of the State. Seeing that all such apprehended dangers have long since passed away, and that such things, in the altered condition of the Church and realm, are never likely to return, we say that it was but fair and reasonable to expect that as Churchmen helped Dissenters to remove from the statute-book restrictive and coercive enactments which were passed against them in times of national religious panic, they in return for these generous services would have helped Churchmen to modify, if not to remove from the statute-book, like enactments which in these days unnecessarily limit the Church's deliberative and legislative liberties. But how do political Dissenters, represented by the Liberation Society, repay this kindness to their friends? Why, simply by proposing to abolish the Established Church altogether, to confiscate all her property, and to prevent the State from recognizing in the Disestablished Church any representative corporate Church body which might even form a nucleus for her new constitution and re-formation (see pages 190–4).

And this is political Nonconformist gratitude! This is political Nonconformist reciprocity! Political Nonconformists, indeed, say to Churchmen, "Yes, you shall have liberty if we can obtain it for you, but it will be the liberty of dissolution as an Established Church; it will be the liberty of the confiscation of all your ancient endowments, parish churches, cathedrals, etc.; it will be the liberty of nonentity, so far as the whole of your present legal ecclesiastical con-

stitution is concerned; it will be the liberty of individuals to reconstitute and reorganize yourselves into a new Church body, bereft of all your parish churches, etc., and all your ancient endowments."

On such ingratitude, on such reciprocity, we need not further dwell. Could ever such a return for the generosity of Liberal Churchmen have been expected? Without the aid of Liberal Churchmen, Nonconformists never would have regained their civil and religious liberties, and now we are face to face with the strange fact in the history of the country that Nonconformists will not only not lend a single iota of help to Churchmen to get rid of imperfections and abuses of which they would willingly purge their Church, but they demand the total abolition of the Church herself, with all her rights, privileges, and property, which are as dear to Churchmen as life itself.

## PART V.

## *Attempts to Secure Uniformity of Public Worship.*

### I.

*The 2 & 3 Edward VI. cap. 1, declares that divers uses or forms and modes of conducting Divine Service prevailed in the Church of England up till that time. Such diversities of use had not up till Edward's reign been regarded as inconsistent with the unity of the National Church.*

The statute says :—

"Of long time there hath been had in this realm of England and in Wales divers forms of common prayer, commonly called the services of the Church, that is to say, the use of Sarum, of York, of Bangor, and of Lincoln; and besides the same, now of late much more divers and sundry forms and fashions have been in use in the cathedral and parish churches of England and Wales, as well concerning the matins or morning prayer, and the evensong, as also concerning the Holy Com-

munion, commonly called the mass, with divers and sundry rites and ceremonies concerning the same, and in the administration of the other sacraments of the Church."

2.

*The attempts to ensure uniformity in the mode of conducting Divine Service were a comparative failure. The Archbishop of Canterbury and certain of the most learned and discreet bishops, with other learned men of the realm, appointed to make further efforts on this behalf; as set forth in* 2 & 3 *Edward VI. cap.* 1, *sect.* 1.

The section says :—

"The King's majesty . . . hath heretofore divers times assayed to stay innovations or new rites, . . . yet the same hath not such good success as his highness required in that behalf; whereupon his highness . . . being pleased to bear with the frailty and weakness of his subjects in that behalf, of his great clemency hath not been only content to abstain from punishment of those that have offended in that behalf, for that his highness taketh that they did it of a good zeal; but also to the intent of uniform, quiet, and godly order should be had concerning the premises, hath appointed the Archbishop of Canterbury and certain of the most learned and discreet Bishops, and other learned men of this realm to consider and ponder the premises; and thereupon having as well eye and respect to the most sincere and pure Christian religion taught by the Scripture, as to the usages in the Primitive Church, should draw and make one convenient and meet order, rite, and fashion of common and open prayer, and administration of the sacraments, to be had and used in his Majesty's realm of England and Wales."

3.

*By the* 2 & 3 *of Edward VI. cap.* 1, *sect.* 1, *the first Book of Common Prayer was declared to be the result of the labours of the archbishops and bishops and other learned men, and its use was enjoined throughout the realm.*

The words of the statute are :—

"By the aid of the Holy Ghost, with one uniform agreement, is of them concluded, set forth, and delivered to his Highness, to his great comfort and quietness of mind, in a book entitled 'The Book of Common Prayer and Administration of the Sacraments and other rites

and ceremonies of the Church, after the use of the Church of England.' . . . Wherefore the lords spiritual and temporal, and the commons, in the present Parliament assembled, considering as well the most godly travail with the King's Highness, of the Lord Protector, and of other his Highness's council, in gathering and collecting the said Archbishops, Bishops, and other learned men together, as the godly prayers, orders, rites, and ceremonies in the said book mentioned, and the considerations of altering those things which be altered, and retaining more things which be retained in the said book, but also the honour of God, and great quietness which, by the grace of God, shall ensue upon the one and uniform rite and order in such common prayer and rites and external ceremonies to be used throughout England and Wales, at Calais and the marches of the same," etc.

4.

## *Act of Uniformity, etc., repealed by Queen Mary.*

In session 2, cap. 2, it was enacted :—

"All such Divine Service and administration of Sacraments as were most commonly used in England in the last year of Henry VIII. shall be used throughout the realm after the 20th day of December, 1553, and no other kind of service nor administration of Sacraments."

*By 1 Elizabeth, cap. 2, the Act of Mary, rescinding the Uniformity Act of Edward, was repealed, and the use of the Book of Common Prayer of Elizabeth was enjoined. From the fact that the bishops, so immediately after the sweeping changes of Mary's reign, did not join the Crown and Parliament in reimposing the use of the Prayer-book of Edward VI., certain persons have urged that the book possessed only parliamentary authority; but they seem to have forgotten that the book itself was compiled by the archbishops and bishops in Edward's reign, and that its use had been already imposed upon the Church by the lords spiritual as well as by the Crown and the lords temporal.*

The words of the Act are :—

"Be it enacted by the Queen's Highness, with the assent of the lords and commons in this present Parliament assembled, and by the authority of the same, that all and singular ministers in any cathedral or parish church, or other place within this realm of England, Wales, and the marches of the same, or other the Queen's dominions, shall,

from and after the Feast of the Nativity of St. John Baptist next coming, be bounden to say and use the matins, evensong, celebration of the Lord's Supper, and administration of each of the sacraments, and all the common and open prayer, in such order and form as is mentioned in the said book, as authorized by Parliament in the said fifth and sixth years of the reign of King Edward VI., with one alteration or addition of certain lessons to be used on every Sunday in the year, and the form of the litany altered and corrected, and two sentences only added in the delivery of the sacrament to the communicants, and none other or otherwise."

5.

*It is not of the essence of a National Church that there should be an exact and stringent uniformity throughout its services. That the Church of England up till the time of Edward VI. had and exercised the freedom of divers uses of Sarum, York, Bangor, etc., in Divine Service is admitted by the preamble of* 2 & 3 *Edward VI. cap.* 1; *and that the attempt to ensure uniformity, and repress differences in the manner of conducting the services of the Church were not so successful as had been expected, was not to be wondered at. The comparative failure of the Acts of Edward and Elizabeth is set forth in the preamble to the Act of Uniformity of* 1662, 13 & 14 *Charles II. cap.* 4.

The preamble alleges that, notwithstanding the preceding Acts of Uniformity of Worship,

"A great number of people in divers parts of this realm, following their own sensuality, and living without knowledge and due fear of God, do wilfully and schismatically abstain and refuse to come to their parish churches and other public places where common prayer, administration of the sacraments, and preaching of the Word of God is used upon the Sundays and other days ordained and appointed to be kept and observed as holy days: and whereas by the great and scandalous neglect of ministers in using the said order or liturgy so set forth and enjoined as aforesaid, great mischief and inconvenience during the time of the late unhappy troubles have arisen and grown, and many people have been led into factions and schisms to the great decay and scandal of the reformed religion of England, and to the hazard of many souls."

6.

*Whatever may be said of the Act of Elizabeth in reimposing upon the Church the use of the Prayer-book—which the authorities of the Church in the first place drew up, and in Mary's reign laid aside—without the consent of the bishops, all must admit that the Book of Common Prayer as it now stands is the work of the bishops of the Church, sanctioned by both Houses of the Convocations of Canterbury and York, and approved by Parliament, but only after it was finished by the Church, Parliament making no alterations in it whatever, but simply making lawful its use as authorized by Convocation. All this is set forth in* 13 & 14 *Charles II. cap.* 4, *sect.* 1.

The statute states:—

"The King's Majesty, according to his declaration of the five and twentieth of October, 1660, granted his commission under the great seal of England to several Bishops and other divines to review the Book of Common Prayer, and to prepare such alterations and additions as they thought fit to offer: and afterwards the Convocations of both the provinces of Canterbury and York, being by his Majesty called and assembled, and now sitting, his Majesty hath been pleased to authorize and require the presidents of the said Convocations and other the Bishops and Clergy of the same, to review the said Book of Common Prayer, and the book of the form and manner of making and consecrating of bishops, priests, and deacons: and that after mature consideration they should make such additions and alterations in the said books respectively as to them shall seem meet and convenient: and should exhibit and present the same to his Majesty in writing for his further allowance or confirmation: since which time, upon full and mature deliberation, they, the said presidents, bishops, and clergy of both provinces, have accordingly reviewed the said books, and have made some alteration which they think fit to be inserted in the same; and some additional prayers to the said Book of Common Prayer, to be used upon proper and emergent occasions; and have exhibited and presented the same unto his Majesty in writing, in our book entitled 'The Book of Common Prayer and administration of the sacraments, and other rites and ceremonies of the Church, according to the use of the Church of England, together with the psalter, or psalms of David, pointed as they are to be said or sung in churches; and the form and manner of making, ordaining, and consecrating of bishops, priests, and deacons;' all which his Majesty having duly considered, hath fully

approved and allowed the same, and recommended to this present Parliament, that the said books of Common Prayer and of the form of ordination and consecration of bishops, priests, and deacons, with the alterations and additions which have been so made and presented to his Majesty by the said Convocations, be the books which shall be appointed to be used by all that officiate in all cathedral and collegiate Churches and Chapels, and in Chapels of Colleges and Halls in both the universities, and the Colleges of Eton and Winchester, and in all parish churches and chapels within the kingdom of England, dominion of Wales, and town of Berwick-upon-Tweed, and by all that make or consecrate bishops, priests, or deacons, in any of the said places."

7.

*When it was found that the Act of Uniformity, 1662, was a failure so far as Nonconformists were concerned, and pressed heavily and unjustly upon them, the Act of Toleration was passed, the 1 & 2 of William and Mary relieving Nonconformists from the penalties of their nonconformity; and many other Acts have since been passed, placing them practically on an equality with Churchmen. The time has now come to ask whether the Acts of Supremacy and Submission, which were passed under circumstances which have no even resembling existence in England, and to guard against apprehended dangers of foreign usurpation which are no longer dreaded, should not be considerably modified, to give more freedom to Churchmen, in like manner as has been given to Dissenters from restrictions to which they were formerly subject.*

By 1 & 2 William and Mary, session 1, cap. 18, an Act was passed—

"for exempting their Majesties' Protestant subjects dissenting from the Church of England from the penalties of certain laws;"

and by 9 George II. cap. 6, an Act was passed—

"to indemnify persons who have omitted to read the prayers, and make and subscribe the declarations directed to be read, made, and subscribed by the Act of Uniformity of the thirteenth and fourteenth years of the reign of King Charles II. within the time limited by law, and for allowing further time for doing thereof;"

and by 11 George II. cap. 31, an Act was passed to indemnify persons who—

"omitted to qualify themselves for offices, or to read the prayers and make the declarations and subscriptions required within the respective times limited by law; and for allowing further time for those purposes;"

and by 7 & 8 Vict. cap. 102, an Act was passed to repeal certain penal enactments made against her Majesty's Roman Catholic subjects; finally by 9 & 10 Vict. cap. 59, an Act was passed "to relieve her Majesty's subjects from certain penalties and disabilities in regard to religious opinions," in which protection for Nonconformists in their public worship was provided for in the following words:—

"From and after the commencement of this Act, all laws now in force against the wilfully and maliciously or contemptuously disquieting or disturbing any meeting, assembly, or congregation, of persons assembled for religious worship, permitted or authorized by any former Act or Acts of Parliament, in the disturbing, molesting, or misusing any preacher, teacher, or person officiating at such meeting, assembly, or congregation, or any person or persons there assembled, shall apply respectively to all meetings, assemblies, or congregations whatsoever of persons lawfully assembled for religious worship, and the preachers, teachers, or persons officiating at such last-mentioned meetings, assemblies, or congregations, and the persons there assembled."

## PART VI.

## *Tithes.*[1]

### I.

### *The Origin of Christian Tithes generally.*

THERE are persons who would have us believe that tithes constitute a general tax originally imposed upon the nation by Parliament. On this ground they contend that this species of property still belongs to the public, and that the

[1] For our treatment of this subject we are much indebted to an article in *Blackwood's Magazine*, August, 1830; also to a volume, "The Revenues of the Church of England not a Burden to the Public," 1830.

Legislature has a moral and constitutional right to deal with this property as it may think fit, to withdraw any part, or even the whole of it, from ecclesiastical benefices and dignities to which it is now attached, and appropriate it to any other purpose which may appear beneficial to the public. Such a representation of the origin of tithes is utterly irreconcilable with the facts of history. A very brief summary of the steps by which ecclesiastical benefices originally acquired the endowments now attached to them will dissipate many of the delusions which prevail with respect to the origin of Church revenues.[1]

We learn from undoubted authorities that, during the earlier ages of Christianity, a general fund was established in every congregation or church by the voluntary contributions of its members. St. Paul advised that every man should lay up for this treasury a weekly offering, more or less in its amount, as the Lord had prospered him. The custom or care by which the Jews devoted a tenth part of their earnings to religious purposes, was by degrees very generally adopted, of their own accord, by the converts to Christianity.[2] The supplies thus voluntarily raised, formed, in fact, the chief source from which the Christian commonwealth derived its revenues for a period of about two centuries after the death of its Founder. But towards the close of the second century of the Christian era, the custom of bestowing permanent endowments of land upon particular churches began to be prevalent; for, by the middle of the succeeding century, the wealth of the Church in many places is said to have become so considerable as to attract the cupidity of the Roman emperors, and formed the real, though concealed, cause of some of the persecutions which arose against the Church. It is, however, not our purpose to dwell upon the origin and

[1] The duty of giving a tithe of goods to God's service was part of the common law of Christianity, and so was impressed by the priest on his parishioners. In 787 this duty was made of general obligation by ecclesiastical councils, which, being attended by the kings and earldormen, had also the authority of witnagenots. (See Stubbs' "Constitutional History," vol. i. p. 228.)

[2] See Gibbons' "Roman Empire," chap. xvi.

progress of endowments in foreign churches. We pass on to our own country, and point out the manner in which tithes and endowments originated in our own land. At first divine worship must have been performed in some private and unconsecrated dwelling situate in the village; here the inhabitants of the surrounding districts assembled, and here the travelling missionary expounded to the peasantry the doctrines of the true faith. That this mode of imparting religious instruction prevailed in the wildest and least populous districts of the country at a later period is a fact which we learn from the Venerable Bede. Describing the labours of Cuthbert, Bishop of Lindisfarne, he says that—

"leaving the monastery, sometimes on horseback, but more frequently on foot, he went to the surrounding villages, and preached the way of truth among their erring inhabitants. For at that time it was the custom of the people of England that, whenever a priest arrived in a village, all the inhabitants should at his bidding assemble together to hear the word of God."

In each village the converts to the new faith gradually multiplied, until they became too numerous to meet in a private dwelling for the celebration of divine service; hence it was found expedient that an "oratory," as it was termed, or house of prayer, should be set apart for the increasing community of Christians.

It was natural to expect that the labours of these able and zealous teachers would finally succeed in making a deep and lasting impression upon the inhabitants of the country. In the course of time, the great landlord of each district, yielding to their exhortations, became a convert to the new religion. His own conversion to the Christian faith rendered him anxious to secure for his immediate domestics, as well as his dependents who cultivated his estate, a more frequent and regular administration of the sacraments than would have been obtained from the casual visits of an itinerant missionary. To obviate the manifest inconveniences of this irregular system of religious instruction, he in most cases built at his own cost a church, in which the inhabitants of *the district* might assemble for public worship, and a house,

which the minister might inhabit. Having thus created a parochial benefice, he voluntarily, freely, and expressly endowed it with a certain portion of the gross produce of his estate as an independent and inalienable provision for each succeeding incumbent[1] constantly resident upon his cure, and devoting his attention to the religious and moral development of the parishioners. This is, in fact, substantially the account given of the origin of tithes by ancient and modern historians. Amongst the latter we refer our readers to Hallam, Bishop Stubbs, Professor Freeman, and Green.

2.

*Origin of Parishes and Parochial Tithe in England.*

In this manner it was that not only the county of Kent, but the whole country became originally divided into parishes; *not all at once by a general regulation or legislative enactment*, but gradually according to the disposition and circumstances of the various owners of estates. It was the work not of one particular era, but of a long series of centuries. A parish was constituted whenever the landlord felt disposed to build a church and found a benefice for the religious instruction of his tenants.

This furnishes a satisfactory explanation of the singular configuration and unequal extent of English parishes. Whenever a benefice was constituted by the owner of the soil, the limits of his private estate became as a rule the boundaries of the newly created parish. Hence our manorial and parochial boundaries are in general found to be still coincident. All exceptions to this rule are capable of being accounted for by a reference to the revolutions which have taken place in the state of landed property at various periods

[1] Tithe, whose payment had first been preached as a duty and then had been enforced by law, had thus thoroughly changed into a mere form of property. It became something which might be disposed of without any regard either to the will or the profit of the tithepayer, providing only it was paid into ecclesiastical hands (Freeman's "Norman Conquest," vol. v. p. 503).

subsequently to the original formation of parishes and the endowment of parish churches.

This account of the origin of parishes is strongly corroborated by an anomaly familiar to all those who have devoted any attention to topographical researches. In every part of the kingdom, parcels of land, insulated and surrounded by other parishes, are to be met with situate at a considerable distance from the parish to which they belong. These anomalies appear to be quite inexplicable upon any other hypothesis than that which has been here put forward to account for the formation of parishes and the origin of tithes. To every reasonable mind these facts must appear as forcible as the testimony of existing documents in establishing the conviction that the endowments of English parish churches were originally derived from the free and spontaneous grants of the owners of estates. These owners endowed the benefices which they founded with the tenth of the produce, not only of their *principal* estates, *but also of such detached parcels of their land as happened to lie at a distance from the churches which they had built.*

The extent to which the formation of parishes had proceeded in the south of England at the date of the Domesday survey, is a matter involved in considerable obscurity. The whole number of churches mentioned in that record amounts to about 1700. But as the Domesday Commission did not require a return of churches, it is only incidentally that they are mentioned, and in some casés there is no reference to them at all. Hence it has been inferred that the churches actually inserted in the Norman survey, fell considerably below the number of such structures actually existing at that time in this country. Whatever may have been the number of parish churches built before the Conquest, little doubt can be entertained that the greater portion of our parochial benefices are of more recent institution, and owe their endowments to the munificence of the early Norman barons or their immediate successors.

3.

*Church and Parochial Extension after the Conquest.*

Secure in the possession of the manors which their leader had conferred upon them, and naturalized in their adopted country, the followers of the Conqueror turned their attention to the cultivation of their estates and the civilization of their vassals. They vied with each other in the beauty and magnificence of the churches which, at their own expense, they built for the accommodation of their tenants and retainers. Hence parish churches and parsonage houses sprung up on every considerable estate, built and endowed by their owners. Another circumstance operated very powerfully in adding to the number of parish churches endowed during this period. The original grantees of the Crown in many instances split their extensive manors into minor fragments, which they conferred upon under-tenants. These subgrantees claimed and exercised, as of common right, the privilege of building churches on the land which they thus acquired; and to avail themselves of this privilege they were impelled by two motives. When the under-tenant built a church upon his own estate, his tenants and domestics were relieved from the inconvenience of resorting for religious purposes to the mother church, lying generally at some distance from them. As long as no church existed in the underfee, the tithes of its produce were demandable by the incumbent of the mother church, who was appointed by the superior lord; but as soon as a church was built and consecrated upon the subfee, it became an independent parish, and the tithes vested in an incumbent[1] nominated by the owner of the property from the produce of which they accrued. The grantees of mesne manors were thus impelled

[1] "The spiritual revenues of the clergy, the tithes and offerings which were the endowment of the parochial churches, were subjected to a divided jurisdiction; the title to ownership was determined by common law, the enforcement of payment was left to the ecclesiastical courts." (Stubbs' "Constitutional History," vol. iii. p. 333).

to build churches on their estates, not only for the convenience and accommodation of their tenants, but frequently for the most interested purpose of securing to themselves the right of nominating the individual entitled to receive the tithes.

4.

*The Endowments of Tithes originally set aside as a Reserved Charge for the Maintenance of the Parochial Clergy made no Addition to the Charges to which Occupiers were subject.*

Assuming the foregoing representation of the origin of ecclesiastical endowments to be correct, it necessarily follows that the advantages which the inhabitants of a parish derive, in a religious, moral, social, or political view, from the ministrations of the clergy were originally a gratuitous boon conferred upon them by the proprietor of the estate who first built a church and endowed it with tithes. The tithes are therefore the proceeds of his bounty. He might, had he thought proper, have devised to his heir the whole of his estate, undiminished by a claim on account of tithes. But such was not his pleasure. On the contrary, he bequeathed his landed property to his eldest son, encumbered and charged with a provision for securing on a permanent foundation the religious and moral instruction of its tenants and residents. It is surely both reasonable and lawful that every man should be at liberty to do what he likes with his own, provided "what he likes" be not injurious to the rights and interests of others; and it will be difficult to point out a reason which should debar the lay owner of an estate from setting aside any portion of its produce for the purpose of instructing its occupiers in the duties of religion and morality, until it can be proved that such an object is repugnant to the interest and welfare of society. When an individual has actually, and for ever, thus alienated any portion of the produce of his estate, it is extremely difficult to comprehend

on what grounds his descendants, much less those who have subsequently purchased the property, or their tenants who rent it, can justly represent themselves as bearing any part of this burden. The founder and endower of a rectory, reserving to himself and his representatives the privilege of presenting to the benefice when vacant, conferred upon the parishioners a right to require the appointment of an individual to the living properly qualified to discharge the ecclesiastical duties of the parish: but the emoluments derived from this endowment do not come from the pockets of the parishioners; they are an anciently appropriated portion of the estate which, before the endowment of the rectory, belonged to the owner, and their value was received by him as rent, but which from the moment of their appropriation to ecclesiastical purposes, ceased to be his property, as they were placed beyond the reach of being the property of his successors.

## 5.

### *The Introduction of Tithes not the Act of the Legislature.*

Whatever obscurity may hang over the manner in which the practice of paying tithes was first introduced into this country—whether it originated in a voluntary grant from the owners of the soil, or in the gradual influence of custom acquiesced in by the proprietors of the land now subject to this payment—still there can be no difficulty in proving that the introduction of tithes cannot be ascribed to an act of the Legislature. In the oldest parliamentary records which the industry of antiquarians has brought to light, no trace can be discovered of the origin of this charge upon land. The earliest acts of the Legislature which refer to tithes do not treat them as a novel demand, but as an old and well-known charge already recognized by ancient and immemorial usage.[1] It is no doubt true that at various periods the

[1] See 13 Edward I. stat. 4; 9 Edward II. stat. 1, cap. 1 and cap. 5, etc.

Legislature has interfered, either to regulate or enforce the payment of tithes as already due of common right, just as, when necessary, it has interfered by its enactments to define and regulate other kinds of property, and to enforce the payment of debts due from one person to another.

## 6.

### *The Title to Tithe the most Ancient Title to Property.*

The title to tithe is, beyond all comparison, the most ancient title to property which now exists. In many places its origin in particular parishes may be traced to ancient records, which, having escaped the ravages of time, still exist; and in all other cases, the actual assertion of this right can be traced back to a period of great antiquity—so removed that we are entitled to rest it upon the fair and equitable presumption that it was originally derived from the voluntary acts of the owners of the land which continues subject to the payment of tithes. From the language and tenor of the ancient records, which are to be met with in our public repositories, it seems extremely probable that in the instance of all the parochial benefices founded subsequently to the Norman Conquest, each church was, on its consecration by the bishops, formally and legally endowed with the tithes of the parish by a written deed executed by the owner of the land; and it also appears that when the estate was entailed, the heir was found to concur with the actual possessor in the execution of this conveyance. It is no doubt possible that in some instances this claim may have been originally introduced by the gradual influence of custom, acquiesced in by the piety of our ancestors. But, although this be conceded, still the right of a parochial incumbent to the income of his benefice will stand upon grounds equally firm in the eye of reason and law, as if it were derived from an express and voluntary grant: for, whatever may have been its origin, the exercise of such a right, acquiesced in for a number of centuries, commits no

wrong upon the individual now possessed of property subject to this claim, but who has acquired it subsequently to the imposition of the burden with which it remains charged.

In whatever manner we suppose the Church to have become originally entitled to a tenth of the produce of the soil, it can make no difference with respect to the pressure of this charge at the present time; for it is indisputable that the whole real property of the country has frequently changed hands since the payment of tithes was finally recognized by the law as a charge upon land.

### 7.

### *Indefeasibility of Title to Tithes not affected by Non-production of Title Deeds.*

In the greater number of cases the original documents by which the lords of manors conferred upon the churches which they built the tithes of their estates, cannot now be actually produced; but the absence of this direct proof, rendered unavoidable by the lapse of nine or ten centuries, will by no means invalidate the reasonable presumption that in most parishes the right to these endowments was originally acquired in the manner we have stated. It is a well-known maxim of law, suggested by common sense, and confirmed by every principle of equity, to infer that a civil right which has been enjoyed without interruption for a long series of years must have originated in some express agreement or grant, although the original conveyance be not now actually forthcoming. The law in this case creates what is called a title by prescription, and assumes that a right actually enjoyed was originally acquired under a legal instrument, which has disappeared in a manner of which no account can now be given.[1]

[1] Lord Macaulay has vindicated "the principle of prescription, the doctrine that there is a limitation of time after which titles, however originated, ought not to be set aside. This principle is to be found in all laws, in all countries, and at all times; it is at the very foundation of property."

## 8.

### *The Right of the Parochial Clergy to Tithes is established quite independently of the Manner of their Origin.*

It matters but little in what manner tithes were originally introduced into this country. Whether they were, in the first instance, conferred upon parochial benefices by the spontaneous liberality of individual landowners, who built churches, and endowed them with a tenth of the produce of their land, or gradually acquired by the force of a custom tacitly acquiesced in by the public, and solemnly recognized by repeated acts of those authorities in which is constitutionally vested the power of legislating for the nation—these are points which it does not appear of vital importance to ascertain. The right of tithes may very safely be made to rest upon one broad fact, which cannot be controverted. No man will dispute that the right of incumbents of ecclesiastical benefices to tithes has been uninterruptedly recognized by the law and customs of this country. It is not a dormant right to be found only in books and records, but a right which has been acted on for ages, and which continues to be daily enforced in practice. Whatever theory may be adopted with respect to the origin of this charge upon the land, it is indisputable that it had been universally recognized in practice, and expressly sanctioned by law, at a period of far greater antiquity than the oldest titles which any lay holder of property can produce. And though it may be a matter of great historical interest to inquire into the origin of tithes, for all practical purposes, in the present controversy as to proposed disendowment, this is the important legal fact about which there can be no difference of opinion, and with which we have to do.

## 9.

### *The Burden of the Tithe does not really fall upon the Occupier of the Land.*

It is sufficient to assume, for argument's sake, that the incumbent of a parish receives, in lieu of tithes, a composition of five shillings per acre, and the landowner forty shillings per acre as rent; were tithes abolished, were the claims of the incumbent to his share of the produce to cease, no reasonable man doubts that at the expiration of the agreement subsisting between the occupier and the owner of the land, the sum now paid for tithes would be added to the amount of rent exacted by the landlord. Land which he now lets, *subject to tithes*, for forty shillings per acre, would then be let by him, *free from tithes*, for forty-five shillings. The abolition of tithes would, in such a case, merely add five shillings per acre to the present income of the landowner; but to the occupier of the land it could produce no pecuniary advantage whatever. Hence it clearly follows that the *occupier* of land, whether he be a member of the Church of England or dissent from its communion, cannot be said to make any contribution towards the income of the Church. He simply pays a legal charge, which, were it not paid to the present titheowners, would have to be paid to some other person or persons. The *occupier* now pays in the form of *rent and tithes* a gross sum, which, if tithes ceased to exist, would inevitably be exacted from him as rent.

## 10.

### *The Burden of the Tithe does not fall on the Landowner.*

Granting it to be true that if the claim of the titheowner ceased to exist, the amount would be added to the present demands of the landlord, the question arises, does

it not follow that the burden of the tithe falls upon the *owner* of the soil? If it be admitted that the rent payable to the landowner is reduced by the exact amount now received by the ecclesiastical proprietor in lieu of tithes, is it not a necessary consequence that the *lay proprietor* of the land has to bear the tithe burdens?

By way of replying to these questions, it may be asked, Did not this proprietor or his ancestor inherit or purchase his land subject to the claim of the titheowner? and was not the price paid for it if purchased less by the exact amount of the tithe with which it was chargeable?

If this question be answered, as it must be, in the affirmative, it will necessarily follow that there is no reasonable ground for alleging that the landowner contributes towards the income of the Church. *That portion of the produce of the soil which has been reserved and set apart in this country for ecclesiastical purposes, never was the property of the present lay owner of the estate on which it is levied, nor did it ever belong to any of his immediate predecessors.*

Every acre contained within the limits of England and Wales, not exempt from tithes, has been sold and let liable to that burden from a period long antecedent to any written record, and on every successive transfer of landed property the estimated value of the tithes has been taken into account and deducted from the price paid for it by the purchaser. It is therefore a manifest perversion of language to affirm that the clergy of the Church of England are *paid* either by the *occupier* or the *owner* of the soil, except in the sense in which a landlord is said to be *paid* by his tenant. If the owner of an estate alienated it twenty years ago, reserving to himself or his assigns a perpetual rent-charge upon such estate, equal to a tenth part of the produce, could the individual receiving such an annuity be considered as paid or pensioned by the present owner of the freehold from whence it accrues? The most violent impugners of the rights of the clergy to tithe would scarcely undertake to maintain the affirmative of such a proposition.

There are others who maintain that tithes constitute

a burden which falls not upon the occupier or owner of the soil, but upon the *consumer* of titheable commodities; admitting that tithes neither diminish the net revenue or rent of the owner, nor the profits of the occupier of land, they allege that this burden makes an addition of one-tenth to the money price of the article on which it is levied.

## II.

### *The Burden of the Tithe does not fall on the Consumer of the Produce of the Land.*

To place in a clear light the opinion of those who think otherwise, let it be assumed that an acre of land subject to this burden, and let for forty shillings, produces twenty bushels of wheat, which sell for one hundred shillings; the tithe of the produce of this acre would be two bushels of wheat, worth ten shillings. Adam Smith and other eminent writers, who have been hitherto regarded as authorities in questions of political economy, admit that if the ten shillings levied as tithes in the case here stated, ceased to be exacted, the amount would be added to the rent already received by the landlord, but that it would make no alteration in the money or selling price of the wheat which this land produces. But the persons who have recently set themselves up as oracles in matters of this kind, pronounce this to be an erroneous opinion; they contend that if tithes were not levied on the acre in question the result would be not that the landlord would add ten shillings to the forty shillings now received by him as rent, but that the market price of the wheat would fall one-tenth, and that the grower would sell the whole twenty bushels for ninety shillings—the price which he now obtains for eighteen bushels.

This singular theory of what its authors quaintly term the "incidence of tithes," is made to rest on a basis equally singular. It most erroneously assumes as a fact that the least fertile soil brought in this country to a state of tillage pays no rent. The expense of raising wheat upon this

"least fertile soil" is then assumed to be the "natural cost of production," which regulates the market value of wheat grown not only upon that "least fertile soil," but upon all other soils, however superior in quality. From these falsely assumed premises they endeavour to infer that tithes, adding one-tenth to the cost of producing wheat on the least fertile soil in a state of tillage, must at the same time make an addition of one-tenth to the money price of all the wheat offered for sale in the public market.

But the alleged fact on which this delusive theory is constructed is utterly destitute of foundation, namely, that the least fertile soil retained for any length of time in a state of tillage pays no rent; that the owner of the least productive spot in a state of civilization will permit it to be occupied for any considerable period without exacting some part of its produce, under the denomination of rent, is an assumption controverted by general experience. No spot of land, so far as we know, can be found in England or Wales, permanently retained in a state of tillage, which yields the owner no surplus of its produce as rent. The very worst soil which can be tilled, with the reasonable prospect of a remunerating profit, possesses some natural powers and local advantages which are the property of the owner, and for the use of which he will exact some amount of compensation from the occupiers.

Suppose, however, it be conceded, in the teeth of all practical experience upon this subject, that the least fertile soil in a state of tillage, *subject to tithes*, yields no surplus as rent, but barely makes the ordinary return of profits for the capital employed in its cultivation—still, this concession will not support the inference which is drawn from it; for it will by no means follow as a matter of course that the abstraction of the tenth part of the produce of this "least fertile soil" will affect the money price of the other nine parts when brought to market. For this "least fertile soil," even upon the supposition that it yields no surplus as *rent*, evidently yields a surplus beyond the cost of tillage *as tithes*. If the demand for tithes ceased to exist, the consequence

in this very case would be not that the market value of the whole produce would be diminished, but that the landowner, who is now *said* to receive nothing, would then obtain as *rent* the portion which is at present the property of the titheowner.

12.

*Tithe no Hindrance to Cultivation.*

It is urged that the payment of tithes discourages the production of agricultural commodities, and that by its thus diminishing the quantity actually raised, it increases the price of that portion which is sold to the consumer. This argument appears much stronger in theory than it turns out to be when put to the test of practical experience. If the payment of tithes operated practically in this way, and to the extent which a theorist would lead us to suppose, it would necessarily follow *that land free from tithes should, at least in general, be found better cultivated than land which continues subject to that burden.* This surely is a result that we might reasonably expect. Now, England furnishes ample means for making a comparison with regard to this very point. Under the operation of moduses and other legal exemptions, or under the provisions of the numerous enclosure bills which have been passed by the Legislature, a very considerable portion of the surface of England has become exonerated from the payment of tithes. We fairly ask, then, are those parishes or farms which are tithe-free better cultivated and more productive than other parishes or farms, of equal quality, still subject to tithes? On the contrary, is not Kent, where tithes are perhaps the highest, the best cultivated of any county in England? If this be the fact, what becomes of the objection raised against the payment of tithes on the ground that they operate as a general discouragement to tillage?

## 13.

### *Tithe is not a Tax.*

Between tithes and a tax there are various and essential distinctions, which invest Parliament with authority over the latter which it cannot constitutionally exercise over the former. A tax is imposed by the Legislature in the first instance; what Parliament has the right to impose upon the nation, it has the right to modify or remove. When a tax has been laid on by the Legislature, the same body, as guardian of the public purse, is in effect the party which receives the impost; what it is entitled to receive, it must necessarily possess the power to remit at its pleasure. But it is very different with respect to tithes. To the receipt of these the Government of this country has not, and never had, the least claim. They still are, as they ever were, the inalienable property of a third party. No power, therefore, without an absolute subversion of the most sacred principle of equity, as well as of a fundamental article of the British constitution—a uniform and inflexible maintenance of the private rights of individuals—can surrender the minutest portion of that property which is not its own.

If the opponents of ecclesiastical endowments should be able even to prove that tithes constitute a tax originally imposed upon land by the authority of the Legislature, they will be as far as ever from the object which they wish to accomplish. If this charge must be termed a tax, it falls, like the land-tax, upon the net revenue derived from land, and not upon the commodities which the land produces—that is to say, its effect is to diminish rent, and not to enhance the price of provisions. No man will argue that the abolition of the land-tax would yield a benefit to any member of the community except the owner of the land, or that the repeal of that impost would have the slightest effect upon the selling price of the produce grown upon the land which is now subject to the charge; its extinction would merely allow the landed proprietor to put into his own

pocket the amount which he now pays to the Exchequer in the form of land-tax. To the extinction of this burden upon his estate the present owner can have no claim; it was imposed before the land came into his possession, and the price paid for it by the first purchaser after the imposition of the tax was diminished in proportion to the amount of this charge.

Between tithes and a tax there is also the following broad and palpable distinction:—a tax is levied upon every member of the community in proportion to the quantity of the taxed commodity which he consumes. Hence the relief derivable from the abolition of a tax would fall to the share of each individual in proportion to his expenditure. But as tithes fall solely upon the net revenue accruing from land, the abolition of this rent-charge would merely serve to augment the rent of land from which it now forms a deduction; and in no respect diminish the price of agricultural produce to the general consumer. If there are, therefore, any persons who insist upon calling tithes a tax, let them at the same time remember that they fall exclusively upon the net revenue or rent of land; and that from the abolition of this burden and the consequent annihilation of the advantages which the nation derives from its National Church, the only class who could expect to reap the smallest profit, even in a pecuniary sense, are the owners of landed property.

## 14.

*Even on Land paying little if any Rental, were Tithe abolished as payable to the Parson, it would, in another Form, be paid to some one else.*

Granting that the least fertile soil permanently retained in a state of tillage yields no surplus to the landowner—a fact which we cannot credit—still, the amount now levied upon it as tithes would, if this claim were abolished, be exacted from the cultivator of the same soil, as rent, by the landlord. For even those who most strenuously contend

that the burden of tithes falls ultimately upon the consumer of agricultural produce, will admit that the produce of the least fertile soil permanently retained in a state of tillage, paying no rent, but subject to tithes, must yield a remunerating profit to the cultivator, otherwise he would cease to till it. Were the charge for tithes to be abolished, it would evidently yield more than the average profit of capital by the amount of the tithes now levied upon it; and this excess of profit arising from the abolition of tithes would be claimed by the landowner, who would be receiving no rent for his land. Let it be assumed that the produce of a given acreage of fertile soil, which is said to pay no rent, sells for £40, and that the claim of the titheowner, now amounting to £4, were to cease; would the whole produce, which now sells for £40, be in that case sold for no more than £36? "Yes," say the theorists. "No," says common sense; "if the £4 now paid in lieu of tithes ceased to be exacted, another claimant to an equal amount would instantly and naturally spring up in the person of the landlord."

It appears not a little singular that the same authorities who are found to argue that tithes fall upon the consumers of agricultural produce—upon the poorest beggar, as well as the proudest peer, in the ratio of their respective consumptions, should not at the same time maintain *that the payment of rent is attended by the same consequences.* This is a manifest inconsistency; for if it could be maintained that tithes increase the money price of the produce of land one-tenth, surely it would follow as an inevitable consequence that the payment of rent must raise this price still further, and to such an extent as the annual amount of the rent exceeds the value of the tithe.

There is, therefore, no ground whatever for the assertion that tithes make any addition to the exchangeable value of the articles of consumption on which they are levied, and upon the consumer of agricultural produce in the form of an increased price; on the contrary, it is clear that a bushel of wheat sells for the same money price in the market, whether the crop of which it forms a part has been tithed or not.

It is a maxim which cannot be controverted, that the selling price of every commodity must be regulated by the relative proportion subsisting between the supply and the demand in the market; it can manifestly make no difference whether this supply be furnished by one or by fifty sellers. Whether one hundred bushels of wheat be brought to market by the grower alone, or ninety bushels by the grower and ten bushels by the titheowner, the money price of the commodity must surely remain the same. Those who contend that tithes increase the selling price of agricultural produce, seem to argue upon the assumption that, when taken in kind, the tenth is annihilated by the owner, that it is absolutely withdrawn from the aggregated supply of the country, and that the effect upon the exchangeable value of the remainder is the same as if this portion of land were annually destroyed. But as this assumption is clearly erroneous, as the quantity of produce which passes into the stores of the titheowner is sent to market equally with that portion of it which remains in the granary of the grower, it clearly results that the effect of tithes, even when levied in the most rigid manner, in kind, is not to render agricultural productions dearer to the consumer, but simply to diminish the amount of the surplus which, under the denomination of rent, would otherwise inevitably fall to the share of the landowner.

Tithes, therefore, constitute merely a portion of the surplus produce of the soil, which the cultivator yields to an ecclesiastical instead of a lay owner. Their burden does not fall upon the consumer, because they do not affect the price of agricultural produce; nor upon the occupier, because his rent is reduced in proportion to the average value of the tithes; nor upon the owner, because this charge was taken into calculation when the property which he holds was purchased.

## 15.

### *Tithes not the Property of the State.*

Those who maintain that the whole of our ecclesiastical revenues are the property of the State, and may therefore be alienated to secular uses, according to the pleasure of the Legislature, ask us—

"What can be the meaning of the phrase that tithes neither are *nor ever were* the property of the State? or that the right to these, especially clerical tithes, was probably established on a basis of much greater antiquity than the property of any landed estate in the kingdom? Assuredly, it is not meant to say that the State, that is, the community at large, *or any individual under the protection of the Legislature, never had a right to do with the land itself, or the whole produce of it, whatever they deemed proper.* It will not, surely, be maintained that there never was a time when Christian clergy were not known in this kingdom, and when, of course, no tithe could have been appropriated for *their* support? If this position cannot be denied, what can be the meaning of the saying that the tithes did not belong to the State? What other power than the legislative authority could have appropriated tithes to the clergy? and if it was not under the power of the Legislature, by what right could the clergy acquire it? If the *whole* of the property once belonged to the State, or to those to whom the State had assigned it, must not the tithe, which was only a part of the whole, have belonged to it?"

It may be admitted that the premises put forward in the above extract are true; that at some remote period all the land of this country may have once belonged to the State, or, in order to render the expression intelligible, may have been occupied in common by all the members of the community; that, by division and allotment, this land gradually ceased to be common, and passed into the hands of individual owners as private property; and that these individuals had, under the protection of the Legislature, a right to do with the land itself, with the whole produce of it, or with any part of this produce, what they deemed proper. But granting these premises to be well founded, they will not bear out the inference which is drawn from them—that ecclesiastical revenues are the property of the State. Indeed,

they seem all to bear the contrary way. If the individuals into whose hands the land originally passed in a state of severality, had, under the protection of the Legislature, a right to dispose of the *whole* of its surplus produce at their own discretion, would not the same individuals, the same assignees of the State, have a right to do with a *part* of this whole "whatever they deemed proper"—to confer a tenth or any other proportion of it as an endowment upon parish churches founded by them? That they possessed such a right cannot be questioned. Before the constitution of each parish, the owner of the land now included within its limits had the whole of the soil vested in himself as private property. On every principle of natural equity, he could, had he so thought proper, have conferred the whole surplus produce of his land, or in other words, the fee-simple of his estate, upon the Church as an endowment. This in multitude of cases was done. Hence it appears that the reasoning advanced to prove that tithes are public property, furnishes the very strongest ground upon which the holder of any species of property can rest his title; instead of invalidating the right to tithes, it establishes this right beyond all cavil and dispute. The opponents of tithes admit that the owners of estates which now constitute parishes, had a legal as well as a moral right to dispose of the *whole* net revenue of their land according to their own discretion; they appear, therefore, singularly inconsistent when they deny these original landowners the right of endowing the benefices which they founded with a *tenth* part of the produce.

16.

*The Root-Fallacy concerning the "Payment" of Tithes.*

It is a very prevalent error that all classes of the community are compelled by law to pay tithe in the sense of a legal contribution for the support of the Church of England, and that certain sections of the community, while they support their own religious teachers by voluntary contributions, are compelled, in addition to this burden, to contribute

towards the maintenance of the clergy of the Established Church.

There can be little doubt that much of the hostility felt towards the Established Church by the various classes of Dissenters throughout the kingdom arises from this belief that they are compelled by law to contribute, in proportion to the amount of their property, towards the maintenance of the Established Church. Nor is this delusion confined to those who dissent from the Church; indeed, in some cases it operates, powerfully as well as extensively, on the minds of persons who might be expected to know better and to be exempt from its influence.

A large portion of the population of England has been taught to consider the clergy of the Established Church as a body of mere State officials, who draw their incomes from the whole community. This is a seriously mischievous fallacy, arising from an utter misconception of the offices of the clergy and of the nature and origin of the sources of the property and revenues of the Church. The clergy of the Church of England cannot properly be said to receive pay from any member of the community, whatever may be the terms of his creed, or the amount or nature of his property.

It must be observed that when it is alleged that Dissenters are compelled "*to pay*" the clergy, the expression "to pay" in this case must bear a very different signification from that in which it is used when a tenant is said to pay rent to his landlord, or when a debtor is said to pay a creditor the ordinary debt which he owes him. If the word *pay* be used simply in the sense that all the members of the community who possess such real property as is subject to tithes are compelled to pay tithe trust money towards the support of "the Church," it is a mere truism. But if it be used in another sense—namely, that of transferring to the Church property which either in equity or law belongs to those who are said to pay, the word *pay* involves a plain fallacy; for it is an indisputable fact that in this latter sense of paying to the clergy something which legally belongs to the tithepayer no payment is made at all. The annual tithe rent-charge of

England is some four and a half millions sterling. But a large portion of this amount is the property of private owners. The payment of tithe to them so far as actual payment is concerned is precisely the same kind of payment that is made to the clergy—not *contributory*, but obligatory.

17.

*Were the Parochial Tithes, in Parishes with a Resident Incumbent, legally chargeable to the Relief of the Poor?*

There is no evidence from the statutes to show that they ever were so. But in any case before the Reformation in which the tithes of a parish were taken away from it and appropriated or annexed to a religious house, there had of necessity[1] to be a clause in the legal instrument by which the tithes were alienated from the parish, making provision that a certain portion of them should be reserved or set aside for the support of the clergyman who might be appointed to take temporary or permanent charge of the parish, and also towards the support of the poor. Even with reference to these exceptional cases it must be borne in mind that the populations of parishes were very sparse, and the poor—in the sense in which they are amongst us now—scarcely existed, so that a little in those days would have gone a long way towards necessary relief. Those, therefore, who claim that a portion of the tithes should be devoted to the relief of the poor, confuse and confound such annexed and appropriated tithes with the ordinary tithes of a parish which are received by a resident incumbent. Their claim, therefore, holds good only with respect to such tithes as we have specified as chargeable to the poor, namely, those taken away from parishes and annexed to religious houses, which tithes passed into the hands of Henry VIII. as a part of the confiscated property of such houses at the Reformation, and he disposed of them to his favourites, and appropriated them to other uses as he thought proper. The

[1] By 15 Richard II. cap. 6, and 4 Henry IV. cap. 12.

claimants, then, for a portion of the tithes for the support of the poor, must find out to whom these tithes were given, and to what uses they were devoted, and follow them to their destination.

The poor of England, up till the time of Henry VIII.'s spoliation of the property of the religious houses—part of which, as we have shown, was chargeable to the relief of the poor—apart from this exceptional legal provision, were chiefly dependent upon the charity of the clergy and chief landowners for their sustenance. But all the legal provision made for their support from the property of the religious houses was entirely taken away when Henry VIII. robbed them of their possessions. This great change necessitated the origin of the present Poor Law enacted by 43 Elizabeth in 1601, by which statute the support of the poor was made chargeable upon the rates of the parish, and overseers were appointed to see to their relief.

But even taking things as they are, there is no subject of the realm who, in proportion to his income—apart from his own voluntary charitable gifts—contributes more towards the support of the poor than the incumbent of a parish, who derives his income from tithes. For while ordinary rate-payers are rated to the poor only upon the houses and lands they occupy, the incumbent deriving his income from tithes is rated equally with them in these respects, but over and above this he is rated to the relief of the poor and to all parochial rates and taxes, and for all the queen's taxes, on every pound of his income from tithe. Those who contend that a portion of the ordinary parochial tithe should go to the poor, overlook all these important facts, and besides, they forget that the whole circumstances of England have changed with reference to the immense decrease in the value of tithes, the increase in the number of poor, the character of their poverty, and the amount annually required for their relief. The gross income which the Church receives from tithes is a little over two millions and a half, whereas the poor's rate during the year 1883 amounted actually to £14,091,519, and the number of poor relieved in the same year was

782,422, being more than one-third the number of the entire estimated population of England and Wales in the days of Richard II., in whose reign the charge for the poor on tithes appropriated to religious houses was first made.

## PART VII.

## *Is the Property of the Church National Property?*

### I.

### *Indefiniteness of the Phrase "National Property."*

THERE having of late been so many references to the tithe and other property of the Church being national property, and to the State having a right to its possession, to deal with it as it thinks fit, it may be useful to our readers at such a time as this, and in prospect of discussions on Church property generally, which in the near future may be thrust upon us, to institute a brief inquiry as to in what light the State itself regards its claim upon the property of the Church, in what way in the past it has exercised its right over it, and whether it has ever dealt with it on any other alleged grounds than the professed grounds of re-arranging it, redistributing it, and reapplying it for the benefit of the Church and religion. When people talk of the right of the State to the property of the Church, it would be a considerable restraint upon their recklessness of assertion if they would only take the trouble not only to ascertain how various and complicated may be the definitions of the word "right," but how much depends upon the sense in which it is used by the speaker or writer in his advocacy of any particular object. At least, it is necessary that a man should have it clear to his own mind in what sense he uses the word "right," and what definite meaning he attributes to it when he claims for the State a right in any particular

property. There is a sense in which the State has a right in all property of whatsoever kind it may be. That is to say, the State, by its laws, furnishes the legal groundwork of a title to it, and a basis to the possession of it, for a right to ownership in it. It might be argued that as the laws of the land furnish the basis of a right to property, and as the State makes the laws, therefore the State confers upon the owners of all property the right to its possession. It might further, with some show of reason, be argued that the State which made the laws which confer the right of possession of property upon those who fulfil the conditions which it requires for ownership has a right to alter the laws which give a title and right to the ownership of all property, and therefore that, in a certain sense, the prior claim upon all property and the prior ownership of all property is in the State.

2.

*The State, as a Fact, does assert a Prior Ownership in all Property.*

For instance, the State does from time to time modify and alter the terms and conditions on which even private property may be held. It alters the terms and conditions as to what constitutes even the title and right to it. Every year it attaches to the holding of all property with which it chooses to deal, annual conditions of tenure in the shape of primary charges upon it, for national taxes and parochial charges which are ever changing in their amount and form. If these primary charges were not met by the owner, the State, by the execution of its laws, would enter upon possession of the property and indemnify itself. Then the State asserts a kind of prior right in landed or real property, when it alters and readjusts the laws of tenure as between landlord and tenant, by which it makes the estate let and rented of more or less value, as the case may be, to the landlord or the tenant. This has been notably the case in Ireland, by the

results of the passing of the Irish Land Act and the revisions of rents, and the alterations of the conditions of tenure which have taken place under it. By this Act, in plain words, entirely apart from the purposes of this arrangement, whether the principle and results of the Act were morally right or wrong, the State did legislatively assert such a primary right over the landlord's property, as legally to render it less valuable to him and more valuable to the tenant, by lessening the rent which the tenant should pay him and which he should receive. Moreover, the State, by its regulations for the conveyance of landed property, and for the duties to which it subjects all transference of real property from one owner to another, as well as by its succession duties, undoubtedly asserts a supreme right over all property. This being so, then, with reference even to private property, it will be seen how essential it is for persons who assert that the State has a right to the corporate property of the Church, to have it clear in their own minds, and to make it clear to others, in what sense they used the word "right."

## 3.

### *The State asserted its Limited Right in, and Absolute Right over, Lands by the Statutes of Mortmain.*

By 9 Henry III., Magna Charta, cap. 36, no land was to be given in Mortmain. By 7 Edward I. Stat. 2, it was provided that land taken by any person, religious or other, or religious corporations in Mortmain, should be forfeited. Also lands in Mortmain as to their leasing forfeiture and recovery were regulated by Statutes 13 Edward I. Stat. 1, cap. 32; 13 Edward I. Stat. 1, cap. 33; 18 Edward I. Stat. 1, cap. 3; 27 Edward I. Stat. 2; 34 Edward I. Stat. 3, and a series of Statutes in later times.

4.

*The State has asserted, and still does assert, its Limited Right in, and its Absolute Right over, all Lands, Moneys, etc., devoted to Charitable Uses, whether held by Individuals or Corporate Bodies for such Purposes.*

By 39 Elizabeth, cap. 6, the State asserted this right which statute was passed "to reform breaches of trust touching lands given to charitable uses." The same right was exercised by the State under the provisions of 43 Elizabeth, cap. 4, which was "An Act to redress misemployment of lands, goods, and stocks of money heretofore given to certain charitable uses." Also by 52 George III. cap. 10, which was an Act passed "to provide a summary remedy in cases of abuses of trusts created for charitable purposes." It is needless to continue our enumeration of the series of important statutes, all passed, more or less, for the purposes of regulating, controlling, improving, and better applying to their original or kindred objects all kinds of trust property, whereby the State exercised absolute disposing power over its administration for the objects for which it was primarily bequeathed or given. We come down to the more modern Charitable Trusts Acts of 1853, 1855, and 1860, having for their objects "The better administration of charitable trusts," of which the body called the Charity Commissioners are the executive agents. Every intelligent person knows the enormous powers of these commissioners over property, consisting of lands, houses, and moneys devoted to charitable objects, and that they are as a body a standing organization of the State, whereby the State exercises supreme right and control over all property devoted to charitable purposes. But here, in connection with our argument, it is to be specially noted that the right and control, claimed and exercised by the State, have never been used to alienate the property from its original or kindred trust, unless in the case where the trust is literally fulfilled and a surplus has accrued, but simply to see to the improvement of the

property in its more effective application and better administration to the objects or most kindred objects for which it was originally intended. It is very important to bear this fact in mind, as we shall have reason to refer to it as we proceed with our argument.

## 5.

### *What is the Right which the State has in the Property of the Church?*

So far as it appears to us, we admit at once that the right of the State in the property of the Church is much of the same kind as the right which it has in and over all charitable trust property. But if we really want to know historically and practically what the right of the State is with regard to Church property, we must ask and answer as far as we can two questions—1st, How has the State itself in times past regarded that right? 2ndly, How has it exercised that right? In reply to the first question, as to the sense in which the State, in the whole history of the past, has regarded its right over the property of the Church, we have no hesitation in saying that the State has never regarded that right as extending beyond regulating its tenure, controlling its administration, and improving its application to the purposes to which it was originally sacredly devoted. In fact, the State, so far as there is any evidence to show, has never professed to regard its right over Church property in a sense different from, or extending beyond, the area of its asserted and exercised right over all charitable trust property. We fairly, we think, challenge proof from any statute showing that ever the mind of the State toward Church property cherished a sense of right over it beyond the right which we have specified. In all the numerous Acts, from the date of Magna Charta even to the Tithe Commutation Act, dealing with the property of the Church, it was always regarded as her own in the most absolute sense *for religious uses*, subject only, like all other property, to the laws of the land, and

it was always so regarded and treated by the Crown and realm in successive centuries. At different periods the Church was undoubtedly the victim of many violent spoliations, and inflicted wrongs as well as infringements upon her liberties; but these were admitted to be acts of violent appropriations and encroachments, for which the Church sought and obtained redress. We challenge a reference to any statute in which any claim has ever been made by the State to the property of the Church for its application to secular uses, in the sense in which such claim is made by would-be Liberationists and their supporters.

6.

*But was not the Spoliation of the Church by Henry VIII. a Proof that the State asserted and exercised Absolute Ownership in the Property of the Church?*

It was not. The suppression of religious houses and the alienation of their property under the provisions of 27 Henry VIII. cap. 28; 31 Henry VIII. cap. 13; 32 Henry VIII. cap. 20; and 34 & 35 Henry VIII. cap. 19, took place only, and was only attempted to be justified, on the plea of the King, asserted to and subscribed to by the lords spiritual and temporal, that the religious houses remained so hopelessly bad after two hundred years' visitation, that they could not be reformed, that their suppression was alleged to be made for "*the advancement and exaltation of true doctrine and virtue in the said Church (of England), to the only glory and honour of God and the total extirping and destruction of vice and sin;*" and that it was "to the pleasure of Almighty God and for the honour of this realm" that their possessions, "spoiled and wasted for increase and maintenance of sin should be used and committed to better uses." Such were the pleas under which Henry VIII. proceeded, with the consent of the lords spiritual and temporal, to suppress religious houses, and deal with their property, whatever subsequent wrong uses he

may have made of it. Our argument is, that the Crown laid claim only to disposing right in and over the property after first establishing to its own and others' satisfaction that the property of the religious houses as a trust had failed in securing the end for which it was devoted to their use, and, that being so, it was treated as property held in alienation which practically and legally had lapsed to the Crown. Whether all these things were so or not is not within the scope of our inquiry. It is enough for our argument that, in the Statute 27 Henry VIII. cap. 28, they were alleged to be so, and, being so, were regarded as the justifiable basis for the suppression of the houses and the lapsing of their property to the Crown. But even in this spoliation of Church property by Henry VIII., made under such religious pretences, the rights of persons and their vested interests in the property were respected, and provision was made especially for the rights of founders and patrons of these religious houses, and the rights and vested interests of all who had leases of their lands, while pensions were paid and granted to persons having a legal monetary interest therein.

## 7.

*Henry VIII. kept up his Pretence of being actuated by Religious Motives by in part devoting the Spoliated Property to Religious Uses.*

But even though Henry VIII. regarded the property of the religious houses as lapsed to the Crown, and though he lavished large portions of it on his favourites, yet his conscience or public opinion, or both, obliged him to re-dedicate a large portion of it to the use and extension of the Church, etc.

He founded, out of a portion of the revenues, six new bishoprics—that of Westminster, which was subsequently changed into a deanery with twelve prebends and a school, Peterborough, Chester, Gloucester, Bristol, and Oxford. He also founded deaneries and chapters in eight dioceses,

and the colleges of Christ Church, Oxford, and Trinity, Cambridge, as well as sundry professorships. So that, look at the whole subject as we will, we cannot find any recorded statement in the statutes, nor any act on the part of the Crown or State which proves that the State ever regarded its right in the property of the Church in the sense in which in these days it is by certain persons claimed for it—notably the adherents of the Liberation Society. In fact, Henry VIII. dealt with the property of the religious houses on the pretence that he was dealing with the property of a lapsed trust, whose property was being used in alienation from its original object, and therefore was forfeited to the Crown, or as if he were dealing with the estates of a private individual under a Bill of Attainder, so that even in the rapacious spoliations of Henry VIII. the Liberation Society can find no precedent for its astounding statement that the property of the Church is the property of the State, and that the State should resume its possession.

## 8.

### *The Appointment of Ecclesiastical Commissioners to manage Church Property no Proof that the State regards the Property of the Church as the absolute Property of the Nation.*

It may be said that the appointment of the Ecclesiastical Commission by Parliament to manage the property of the Church is a proof that the State regards the property of the Church as absolutely belonging to the State and Crown.

Our reply is, no more than the State regards the appointment of the Charity Commission to inquire into, improve, better apply, re-apply, and generally control the whole trust property of the kingdom as a proof that it lays claim to the absolute ownership of that trust property. Moreover, the Act 6 and 7 William IV., instituting the Ecclesiastical Commission, carries upon the face of it incontrovertible proof of the very proposition which we have laid

down, namely, that the nation has never laid claim to exercise any right over the Church's property but for the professed object of the Church's benefit, and for the better carrying out of her religious work and ministrations. In fact, the State, in establishing the Ecclesiastical Commission to hold, improve, and administer in trust certain properties of the Church, has simply acted as the superintendent of a trust, endeavouring to secure the better administration and application of its property with reference to the more effectively accomplishing the objects for which it was originally intended.[1] Hence the preamble of the Act referred to affirms that the object which the State had in view in dealing with the episcopal, cathedral, and other properties entrusted to the Commissioners was the suggestion of "such measures as might render them (*i.e.* the endowments dealt with) more conducive to *the efficiency of the Established Church*, and to devise the best mode of providing for the cure of souls." The Liberation Society can find no precedent for its programme of dealing with Church property in the establishment of the Ecclesiastical Commission. It can find no proof in the terms of the Commission that the State, in dealing with the property of the Church, sought other than her spiritual and ecclesiastical advancement, improvement, and extension as the Established Church of England.

## 9.

### *The State has legislated concerning the Property of the Church on the same Principle that it has passed Enactments concerning other Property.*

The Ecclesiastical Commission is alleged to be a "State" commission, as if in that fact there were an assertion of a

[1] It is certain that not only the Parliaments, but the Crown and the courts of law, exercised over the lands of the clergy the same power that they exercised over all other lands; they were liable to temporary confiscation in case of the misbehaviour of their owners, to taxation, and the constrained performance of the due services (Stubbs' "Constitutional History," vol. iii. p. 333).

claim on the part of the State to right of possession in the Church's revenues, and an assumed secularization of the property dealt with.

Well, we do not know that the Commission is anything the worse for being a "State" commission. We do not, as a matter of fact, see how it could possibly be anything else as a commission invested with great legal powers in dealing with property. What other authority but the State could invest such a body with the necessary legal powers? It seems extraordinary for any intelligent person to lay any stress or emphasis upon the fact that the Ecclesiastical Commission is a State-appointed body. The idea that because the State appointed the Ecclesiastical Commissioners to hold in trust and administer certain kinds of Church property for the more effectual extension of the organization of the Church, that therefore the State laid claim to the absolute possession of the property, is about as preposterous as to assert that inasmuch as the State appointed the Charity Commissioners to inquire into and control the administration of charitable trust property, it therefore lays claim to the right of ownership in this kind of property; or because the State appointed certain Irish land commissioners to inquire into, and, if need be, reduce the rents of certain private lands, that therefore the Government laid claim to *the* right of ownership in those lands. The whole thing is a fallacy of the most palpable character, and it is really perplexing to understand how intelligent persons can lend themselves to repeat, or, in doing so, how they can expect people to believe, such utterly baseless assertions.

## 10.

### *What Claim did the State make to Ownership in the Property of the Irish Church?*

But it may be stated that the disestablishment and disendowment of the Irish Church formally settled the right and fact of the nation's claim to ownership in the

property of the Church. Well, what were the exact points that were settled by the disestablishment and disendowment of the Irish Church, so far as dealing with her property was concerned? These points simply were settled—that as the members of the Irish Church were alleged to be about one in eight of the population of that country, it was desirable, from a national point of view, for the State to consider the question of a redistribution or reapplication of the property. It is no part of our business here to inquire whether the Government of the day acted wisely or unwisely, or rightly or wrongly in this matter. The points which we wish to establish, and which we can from the facts of the case establish, are that in dealing with the property of the Irish Church, the State made no such claim to ownership in it, as that kind of ownership which Liberationists and their supporters claim for the State in the property of the English Church. The State did not treat the property of the Irish Church as unqualified and absolute national property, but as property which, as alleged, could be shown, had not answered the purpose contemplated by it, namely, the benefiting religiously of the people of Ireland as a whole, and therefore that it should be proportionately dealt with on that basis. And rightly or wrongly it was thus dealt with. The reconstituted Irish Church was recognized as a corporate body. The representatives of the Church body in their official capacity received a large sum by way of compensation. Incumbents, curates, and every dignitary and official of the Irish Church were equitably compensated, and, in fact, in not a single arrangement made or act done was there anything to support the fallacious assumption that the State regards the property of the Church in an unqualified absolute sense as national property, so as altogether to divert it from the uses to which it was originally given. In fact, the whole method according to which the Government dealt with the property of the Irish Church is in all respects different from the proposals of the Liberation Society as to how the Government should deal with the property of the English Church.

## II.

### *Misleading Phrases used to describe the Characteristics of Church Property.*

Would-be liberators, disestablishers, and disendowers of the Church of England have invented and propagated misleading phrases with reference to the property of the Church of England, and the sources of her income. That the property of the Church is persistently asserted by those good people to be "*national property*," "*public property*," etc., and that "*the clergy are State-paid*," are most fallacious allegations, which form the essential part of the basis on which opponents of the Church carry on their agitation. Remove these planks of their platform, and their agitation becomes utterly baseless. But once having given currency to these fallacies about the Church, and perceiving what prejudice they excite against her when artfully used by agitating tacticians, her opponents still persist in spreading them to their utmost amidst the masses of the people, notwithstanding that they have been contradicted and refuted over and over again. It is, indeed, impossible to attempt to expose the utter misrepresentative character of such statements, without feeling that one is engaged in the weary work of slaying the one thousand times slain.

## 12.

### *Testimonies of Statesmen.*

Liberationists' ears are deaf to all but their own parrot-cries of disestablishment and disendowment; and their minds seem impenetrable to all facts and arguments which militate in the slightest degree against those which are coined in the mint of the Liberation Society. Were this not so, the hope might be cherished that the plain statements of Mr. Gladstone, Earl Granville, and the Marquis of Salisbury, which appeared in the columns of

the *Daily News* of February 18, might convince Liberationists of their delusions. These three statesmen, it appears, were written to by some perplexed correspondent, who, as a Churchman, was sorely puzzled by the assertion of Liberationists and their supporters to the effect that "the clergy are State-paid." Mr. Gladstone said in reply, and we suppose that both Radicals and Liberationists will credit him with having some accurate knowledge upon the subject —Mr. Gladstone said, we repeat, "*The clergy of the Church are not State-paid.*" Lord Salisbury said, "*The bishops receive no grants from the State.*" Lord Granville, who had been consulted as to his opinion upon tithes with reference to the favourite, self-delusive, and deluding assertion of Liberationists and others, that "tithes were created by Acts of Parliament," said, "*Tithes existed in England before Acts of Parliament, though the present mode of assessment and payment was settled by the Tithes Commutation Act.*" Again, on March 5, 1885, Mr. Gladstone stated, "No clergy of the Church of England other than Government chaplains are paid salaries out of the public funds." Will our good liberation, disestablishment, and disendowment friends have the courage to avail themselves of the splendid opportunity of enlightening by their alleged more accurate facts and arguments on this subject three of the greatest statesmen in England, representing both political parties, who, though differing widely in politics, agree as to the fallacies of the Liberationists concerning the property of the Church and the property of the clergy?

# PART VIII.

## *Some Principal Arguments advanced in favour of Proposed Disestablishment.*

### I.

### *The "State Establishment" Argument.*

THE assumption that the Church was set up or established in some way or other by the State lies at the foundation of most of the popular Liberationist errors concerning her. Indeed, the scheme for the disestablishment of the Church by law is based upon the fallacy that the State, at some time *established* the Church by law. But there is no evidence from any statute, nor from any history of State or Church proceedings, to show that ever the State regarded itself as having so established the Church, or that ever the Church looked upon herself as so established. If such an arrangement or bargain had ever taken place between the Church and the State, it is but reasonable that we should expect to find some formal records of it, or some direct or indirect allusion to it. No such record has ever been forthcoming. The story of how the Church established herself in this country, and by what agency and instrumentality, has oft been told. That story is substantially the same as narrated by all impartial English historians.[1] We need not repeat it here; it is already condensed in our chapter on tithes.[2] As Professor E. A. Freeman says,[3] "we have, in short, to get rid of the notion that there was some time or other when the Church was 'established' by a deliberate and formal Act. . . . There was no moment when the nation or its rulers made up their minds that it would be a good thing to set up

[1] See the histories of Hallam, Stubbs, Green, and Freeman.
[2] See sections 1, 2, 3, Part vi.
[3] See "Establishment and Disendowment."

an established Church, any more than there was a moment when they made up their minds that it would be a good thing to set up a government by king, lords, and commons." Quite apart from the errors which prevail as to some State Act by which the Church is supposed to have been established in some early period of her history, as Professor Freeman further says, "the popular notion clearly is that the Church was 'established' at the Reformation. People seem to think that Henry VIII. or Edward VI. or Elizabeth, having already 'disestablished' an older Church, went on of set purpose to 'establish' a new one. . . . There was no one moment, no one Act of Parliament, when and by which a Church was 'established;' still less was there any Act by which one Church was 'disestablished' and another Church 'established' in its place. . . . In all that they did, Henry and Elizabeth had no more thought of establishing a new Church than they had of founding a new nation."

2.

## "*By Law Established.*"

The above and kindred forms of speech, such as "established by law" and "establishment," when applied to the Church of England in the sense used by Liberationists and other opponents of the Church, are most mischievously misleading in the present proposed disestablishment controversy. Their idea is that the Church was established by some designedly deliberate formal act of the State, either through the agency of common or statute law, but in most cases the opinion is that it was through the agency of the latter. It would be a curious and interesting inquiry to ascertain how it has come to pass that such phrases have gained such general currency, considering their very obscure source and the remarkably slight foundation upon which they rest. It is certain, however, that they are productive of an effect upon the minds of the populace prejudicial to the Church, as conveying the idea that she is an institution which owes her existence to the law, that she is exclusively the creation

of law, and that she is maintained and kept in a state of efficiency by the law.

Even intelligent Churchmen cannot always get rid of the confusion created in their minds by the expression, "The Church of England as by law established."

Now, an examination into the origin and the applied sense of these phrases will at once show that they afford not the slightest foundation for the erroneous meaning put upon them. The strongest case that can be made out for their application to the Church of England is the latest "case" of the Liberation Society. In a semi-legal statement embodying all the researches of its ablest representatives it has failed to trace back any idea of the words we have mentioned, such as "established by law," to an earlier date than the Act of Uniformity, 5 & 6 Edward VI., cap. 1, in which the word "establishing" is applied *not to the Church of England herself*, but to the Book of Common Prayer.

That statute speaks of the "establishing of the Book of Common Prayer now explained and hereto annexed." In the Act the 1st of Elizabeth, cap. 1, the word "established" is used in setting forth the claims of the Crown ecclesiastical jurisdiction.

In the Act of Uniformity, 1662, the *Liturgy of the Church of England* is described "as it is now by law established." It was not until 1689 that the phrase "established by law" came to be applied by Parliament to the Church of England herself. Even then *it was not so applied in a statute*, but in an address presented by the Houses of Parliament to William III. He, in his reply, naturally embodied the same expression. In both cases the phrase was incidentally and loosely used, and without any legally descriptive design as setting forth, or to set forth, the *status* and position of the Church of England.

The phrase "by law established" cannot, so far as we are aware, be found in any statute as descriptive of any Act whereby the State set up a new Church of England in the reigns of Henry, Edward, and Elizabeth. Nor can the opponents of the Church produce a single statute in which

such a phrase is used in the sense in which they controversially use it to the prejudice of the Church and with the Parliamentary meaning which they assign to it.

Those who took the chief part in the revolutionary events of the Reformation, the Crown, and lords spiritual and temporal even assembled in Parliament included, never dreamt that in making and in sanctioning certain changes in the administration of the Church and in her services, as well as in her external relations to Rome, they were setting up a "brand-new" National Church of England by law, or that they were in any way breaking away from the continuity of life and identity of the old historical Church of England which had been long established in the land by a higher power, on a firmer basis, and from an earlier date than any other English or merely human institution.

## 3.

### *"By Law Established"—Convocational Use of the Phrase.*

We remarked upon the non-use of the above phrase in any of the Reformation statutes as descriptive of the Church of England. We now refer to its use, or the use of its approximate equivalent, in the Canons.

In the Third Canon the phrase is used as applied to the Church herself. Its words are—"The Church of England by law established." No one for a moment can imagine that the Convocation of 1603 deliberately used these words as intending thereby to express its recognition of some definite Act of the State, by which it by some law set up in the land a new Church of England. Were it possible to imagine such a thing, the questions would be pertinent: by what alleged law or statute was the Church *established?* What words of such statute go to show that those who passed it regarded themselves as thereby *establishing* a new Church of England? In what sense did they regard themselves as *establishing* her? Surely Convocation could not use it in the sense of constituting or refounding the Church,

seeing that she was in complete organized existence at the very time as a powerful ecclesiastical institution with which the State had to deal.

There are possibly some persons to whom the words "*by law established*" may be a kind of stumblingblock from the simple fact of their occurring in the Canons. It must, however, be borne in mind that the words "*by law established*" in the Second Canon are used only incidentally. The object of the Canon is not to define or describe the legal position of the Church of England or set forth her relations to the State, but to declare her as "*a true and Apostolical Church.*" This at once shows that, in whatever sense Convocation used the words "*by law established,*" it did not use them in any Erastian sense, or in the sense attached to them by Liberationists. If any one were to say that Convocation itself, by the use of the phrase "*by law established,*" as descriptive of the Church of England, must have meant thereby a setting up of a different Church from that which existed before the Reformation, it would be a sufficient answer to point out that Convocation in the First Canon uses the words "*by the laws of this realm therein established,*" as applied to "regal supremacy." But the words of the same Canon describe regal supremacy as "*restored;*" therefore the restoration and the establishing of regal supremacy "by law" must mean the same thing. Exactly the same with reference to the Church—her rights, liberties, and jurisdictions, which had been partially usurped by Rome, and had to a great extent lapsed to Rome, were by law restored to her, and she was established in their possession, and by law she resumed the exercise of them. In this sense she was established, or reinvested, with her restored rights and jurisdiction by law, just as the Crown was re-established in its supremacy, which had for a long while to a great extent lapsed to Rome, when it was reinvested with the prerogatives of supremacy "by law."

As a matter of common sense, which the most simple-minded can understand in whatever department of the Church of England, a change was rendered necessary by the

events of the Reformation, it was essential that such a change, as in the case of a change in any other public institution, should receive the sanction of law, and be recognized by or be embodied in a statute, and so it would come to be spoken of as "established by law." Thus, in the Fourth Canon, "the form of God's worship in the Church of England," which was altered at the Reformation, is spoken of as "established by law." In the Sixth Canon, "the rights and ceremonies of the Church of England" are described as "*by law established*," and "the orders and constitutions" of the Church are in the Tenth Canon declared to be "*by law established*." In fact, it would have been impossible for any fundamental change to have taken place in the Church at the Reformation, with respect to her relations to Rome and to the Crown and realm of England, or any change arising out of these, except by law, just as it would be impossible for any changes to take place in any legally established body, religious or otherwise, in the present day, except by law. Every legislative change in any religious or other institution brings about an alteration "by law," and the institution in that altered condition may be said to be "established by law," the law simply recognizing it in its new position and confirming it in that position.

## 4.

## *The "State Endowment" Argument.*

Just as the popular notion is that the State established the Church, so the erroneous opinion prevails that the Church obtained from the State her endowments; and consequently, on that assumption, the Liberation Society proposes that the State should take from her the endowments which it is alleged to have given, and appropriate them to some other purpose. But, as Professor Freeman says, in accordance with the testimony of other historians,[1] "we

[1] See "Disestablishment and Disendowment;" "Constitutional History of England," by Bishop Stubbs; Freeman's "Norman Conquest;" Green's "History of the English People."

must put out of sight the popular notion that at some time or other the State determined to make a general national endowment of religion." "The conversion of England took place gradually, when there was no such thing as an English nation capable of a national act. The land was still cut up into small kingdoms, and Kent had been Christian for some generations at a time when Sussex still remained heathen." "The churches of Canterbury and Rochester undoubtedly held lands while men in Sussex worshipped Woden. The process [of endowment] began in the earliest times, and it has gone on ever since, and nothing was done systematically at any time. This king or that earl founded or enriched this or that church, in which he felt a special interest; and from this it naturally followed that one church was more richly endowed than another. The nearest approach to a regular general endowment is the tithe, and this is not a very near approach. The tithe can hardly be said to have been granted by the State." Ethelwolf's famous Charter, about which so much discussion has taken place, as to whether or not it contained national gift of tithes to the Church, is now admitted as having no reference to the tithe system generally. "The famous donation of Ethelwolf," says Dr. Stubbs, "had nothing to do with tithes."[1] Further, he says, "Ethelwolf's donation cannot be interpreted as a gift of the tithe, which, indeed, was not his to bestow."[2] "The state of the case rather is," says Freeman, "that the Church preached the payment of tithe as a duty, and that the State gradually came to enforce the duty by legal sanctions. But it is only by the Tithe Commutation Act that tithe has been put wholly on the same level as other property." "As to the tithe, it should also be remembered that, though the duty of paying tithe was taught very early, yet for a long time the tithepayer had a good deal of choice as to the particular ecclesiastical body to which he would pay his tithe. Nothing was more common than

[1] See "Constitutional History," vol. i. p. 262.

[2] See "Councils and Ecclesiastical Documents," vol. iii. p. 637, edited by Hallam and Stubbs.

an arbitrary grant of tithes to this or that religious house. In short, the ecclesiastical endowments of England have grown up, like everything else in England, bit by bit."

Further, Professor Freeman says, "we must also put out of sight the popular notion that at some time or other the State took certain funds from one religious body and gave them to another." "There was no one particular moment called the Reformation at which the State of England determined to take property from one church or set of people and to give it to another. As there was no systematic endowment in the sixth or seventh century, still less was there any systematic disendowment and re-endowment in the sixteenth."

Consult what authorized historical source we may, the story of the Church's endowment, whether by gifts of lands or tithes, is the same. The gifts of these endowments of the Church were made to her by her own members as personal voluntary acts, made by their own sufficient authority and in accordance with the common and statute law of the land, and, therefore, were legalized and made sure to her by indefeasible title, as good as that on which any other property is held. (In connection with this section see Part. VI., sects. 4, 5, 6, and 7.)

## 5.

### *The "State Control" Argument.*

The Society for the Liberation of Religion from State Patronage and Control assumes four things: 1. That State control in matters of religion is wrong. 2. That no State has a right to exercise it. 3. That only the Established Church is subject to it. 4. That all Dissenting bodies are free from it.

All these assertions are as false as they are deceptively plausible and misleading. With respect to the first, if by "religion" were meant a man's unexpressed religious opinions, it would be conceded that it would be wrong for

the State to interfere with them; but the moment a man expresses them or advocates them with a view of communicating them to his fellow-men, and thereby endeavouring to secure their adherence to them, and to influence their conduct, it is evident that at that very moment the State has a right to inquire into them, so as to satisfy itself that there is nothing in them dangerous to its own safety or to the good order of the society of which it is the guardian and protector.

For instance, it is conceivable that persons or sects might arise who with conscientious earnestness might regard it as a part of their religion to hold and propagate principles of republicanism in a State that was autocratical, or monarchy in a State that was republican, or they might insist on polygamy, etc., and such persons might plead that, however absurd it might appear to others, they could not help including in their religious creed principles which were admittedly subversive of the government under which they were living; or they might incorporate in their creed a belief in the necessary practice of customs that were outrageous to the decencies of society; or they might regard it as a part of their practical religion to conduct their services in a manner that would be disorderly, creative of disturbance, constitutive of a nuisance, or provocative of a breach of the peace. Now, in any such case no sane person would deny the right of the State to interfere, and control the proceedings of such persons or communities, although they might think it to be not only a violation of their rights, but even a cruel persecution. We are aware that we have instanced extreme cases, but it will be admitted that they are not beyond the possibility of recurrence, and it must be remembered that we are arguing a principle the operation of which cannot always be restrained within assumed limits for the convenience of those who argue that it is wrong for the State to exercise control in matters of religion. All this control would be exercised by the State over professed religious opinions, and the observance of religious practices, quite apart from the communities in question holding property,

or enjoying rights, privileges, and immunities from the State in their capacity as such. (See p. 75.)

But the moment such communities attempt to acquire and possess property, the State of necessity must step in and exercise another kind of control before such communities can legally become possessed of the property in question. (See p. 5.) The State has a perfect right to exercise control so far as to inquire whether the community exists for a lawful purpose, whether it has any object in view subversive of the civil authority and government, and whether it purposes to devote the property which it wishes to acquire to objects consistent with its laws. With reference to these questions and others which might arise, the State would exercise absolute control. In the State, which we suppose for the sake of argument, we need not assume that it is heathen, Christian, or a State of no professed religion at all. We simply speak of the State as a civil power, altogether apart from its attitude to any form of religion, and we affirm—and we do not think that it will be denied—that the assumption that the State has no right to exercise control over religion in the senses we have specified is altogether fallacious.

## 6.

### *State Control unavoidable.*

We might for the sake of argument imagine—what we trust will never be the case in England—that infidelity and atheism might so spread in this country that the Christian faith might for the time being be almost eclipsed by a dominant persecuting atheism which might have the ascendancy in the State. Great as would be such a calamity, would any one deny that in such a case the State as a State would have power to deal with all forms of religion as it might think well? It might exercise its right of control wrongfully in repressing and persecuting any form of the Christian faith, but would any one deny that it had the right as a State to do what it thought proper in the only sense in which States, as a rule, regard "right," that is, power?

Then, again, given that a religious society had succeeded in establishing itself within the dominions of a given State, and that in the course of time it had thought fit to acknowledge the superior wisdom of the head of some neighbouring State so far that it chose to refer all its important questions of differences and disputes on religious matters to the head of such neighbouring State for his supreme arbitration and settlement, and that by such an arrangement ecclesiastical justice could not be obtained within the State, but had to be sought for abroad, thereby necessitating its subjects to undertake long journeys at great expense, to have their ecclesiastical cases adjudicated upon; and suppose, further, that in process of time ecclesiastical questions became so intermixed and intertwined with civil questions that the adjudications of such a foreign ruler not only affected the persons concerned in their relationship as members of the religious society concerned, but in their relations as subjects of the State, thereby bringing the authority of the religious society referred to and the authority of the State into opposition, surely, however much it might be contrary to the conscientious convictions of the persons concerned, the State in question would have a right to exercise its power in limiting and controlling such proceedings, and in saying to the religious society, "If you exist under my protection, *you* must, in matters which you think well to submit to the ruler of a foreign State, be subject to my control. Your own chief officer, in whom is deposited the highest executive authority, must settle your ecclesiastical affairs, subject to reference to me on appeal of aggrieved parties wherein the social and temporal rights of my subjects are alleged to be prejudiced by his decision." This is really the story of what took place between the Church and the State at the Reformation with respect to appeals to Rome.

And suppose, after such a limitation was placed upon the custom of appeal to a foreign ruler upon the part of such a religious society, the said State affected thereby had reason to suppose it not only possible, but probable, that the chiefs of the religious society concerned might at the

first favourable opportunity revolt against the State's interference in this matter, and resort to its former custom of appeal to a foreign ruler, surely it would be within the power of the State to say, "You must not legislatively meet to pass new rules and regulations without my sanction, and any rules and regulations that you do pass must be in conformity with the existing laws of your own society and the realm, and I must specially see to it that in such new rules and regulations there is no acknowledgment, direct or indirect, of the authority in your affairs or in my affairs, of any foreign prince, potentate, or power"? (See Act of Submission, pp. 73, 74.)

## 7.

### *State Control Complete over Voluntary Religious Bodies.*

We maintain that the State would be within its rights in thus acting toward a purely voluntary religious society existing within its dominions; and, if this were so, it would certainly be justified in so acting toward a religious society to whom it had conceded more than actual legal rights by conferring upon it certain privileges. This is in the main what took place, though in an exaggerated and to an unnecessarily restrictive extent, at the Reformation with respect to what is called the Submission of the Clergy and Convocations.

Further, given that such a religious society as that which we have described had acquired lands and other property on trust on the basis of its teaching certain doctrines and observing certain religious ordinances which it had exhibited as scheduled in its trust deed, and the representatives of the donors and the representatives of the State were parties to the contract, can it be denied that the State would be but exercising its right, and could not be prevented from exercising its right, so far as to inquire into the nature of the doctrines and practices, and so far sanctioning them (at least, not objecting to them), and the property being put

in trust, there being three parties to the contract—the donor, the recipient (*i.e.* the religious society), and the State—surely no one party could at will vary the terms of the trust?

In any case, the State, as the guardian and enforcer of contracts made with its sanction, would have to exercise control over any proposed alterations.

[In this position the Established Church and other religious bodies stand alike in their relations to the State, with respect to their scheduled creeds and other conditions of their trusts.]

Still further, suppose that there were differences of opinion, and disputes between the members of such religious society with reference to the management of their internal affairs, or to the creeds and other matters scheduled in its trust deeds, surely it will be admitted that it would not be competent for any member or members, of the body, either in their personal or corporate capacity, to take upon themselves to legally interpret the doctrines, etc., in dispute. All this would, in case of necessity, have to be done by the officers of the State.

Thus, even in the case of a voluntary religious society existing within the State, apart from it being the established historical Church of the country in the sense in which the Church of England is so in this kingdom, the assertion *and* the operation of the principle of State control in matters of religion would be complete all along the line.

[This is an exact description of the relations of all non-conforming bodies to the principle of State control in matters of religion with respect to interpretation of their documents.[1]]

## 8.

### *The "State Patronage" Argument.*

Given that any State found a society growing up in its midst, and, on examination of its principles, teaching, and

[1] For a further elucidation of this subject see "The Dead Hand in the Free Churches of Dissent;" also Article No. IV. in the *Church Quarterly Review*, April, 1885.

inculcations, it not only approved of them, but considered their propagation beneficial not only to itself as a body politic, but contributive to the well-being of itself and to the good and happiness of its individual subjects, what moral or political wrong would there be in the State putting in its way every facility for the advancement of its principles, and for the extension of its organization? And suppose that the State not only facilitated its own efforts at self-extension and acquirement of power, but also conferred upon it certain rights and privileges, what evil would there be in principle to such bestowal of its patronage?

Still further, suppose that it placed in its way unusual facilities, in the first place, for acquiring property and endowments, and even—putting an extreme case—suppose that as a State, when all its subjects were pretty much of one mind on the matter, it itself made contributions to the endowments of such a society, what evil would there be in such a proceeding?

And still further, suppose that, in course of time, certain subjects of the State imagined that they had discovered a better way of carrying out the objects for which the society in question was originally founded, and had formed themselves into a number of small rival societies for the carrying out of the same or similar objects, and that in doing so they represented to the State that it ought in justice to them to withdraw its patronage with the rights and privileges involved in it from the parent society, what wrong would there be in principle, and what injustice to the dissentient societies would there be in practice, in the State saying to such dissentient societies, "No; you are at liberty to hold your own ideas, go your own way, and even to an extent pursue your own plans of hostility toward the parent society, but this society is one of the most ancient in the kingdom; it has, in days gone by, rendered the people of this realm great services. I shall therefore keep to it, retain its services, and extend to it my patronage, guaranteeing to it its rights, privileges, and property, notwithstanding your dissension from it and your opposition to it"?

And if it would not be wrong in principle for the State thus to act with reference to a society within its dominions, having for its object some physical or moral bettering of the people, with respect to the best way of accomplishing which there developed in course of time great and strong differences of opinion, surely it would not be wrong for the State so to act toward a society having not only these objects in view, but much higher objects still, which included everything contributive to the welfare of the State and to the happiness of its subjects?

In all this, our readers will see at once the case of the Church as the ancient religious society of the realm; the State as—on the grounds of the benefits conferred upon itself and its subjects—extending to the Church patronage; the Dissenters denouncing such patronage as wrong, and demanding that it shall cease; and the State refusing to yield to such demands, as being neither based upon any clearly established principle nor as involving any injustice upon those who differ from the Church.

## 9.

### *The Religious Equality Argument.*

There is scarcely any argument which is more misleading as a plea for disestablishing the Church than that such an event would ensure "religious equality." The very phrase, apart from the use made of it, is most indefinite and deceptive. There is a sense, and a very real sense, in which different forms of religion can never be regarded as equal. In this sense, no Acts of Parliament passed, nor Acts of Parliament repealed, could make them equal in the esteem of the people of any country. In this sense the disestablishment of the Irish Church has not made them equal in Ireland, nor would the disestablishment of the Church of England make them equal in this country. Their own comparative inherent merits, the degree of acceptance which they would meet with from the people, their history, the asso-

ciations connected with them, and their resulting prestige, would render them unequal to the minds of the people. That form of religion which is ancient, which has been for centuries accepted by the nation, which is interwoven with the religious life and history of the country, which cannot be historically separated from the great events of the nation, much less from the religious life of the people, and which has rendered inestimable services to the State and to the world, must ever be regarded as having the pre-eminence for veneration, respect, and affection on the part of the great majority of the inhabitants of the country. This inequality between it and other recently instituted forms of religion no establishing nor disestablishing Act of Parliament would destroy.

But we are aware that it is not this kind of religious inequality that the opponents of the Established Church think it possible to destroy, though they seek to lessen it, and would destroy it if they could. The religious inequality which they wish to destroy is religious inequality before the law; that is to say, they would deprive the Church of England of every shred of advantage which she now possesses as an Established Church, and which she has acquired in this country during her gradual growth and history, reducing her to an equality with the lowest of the numerous sects which exist in the land.

## 10.

### *Religious Equality before the Law—Is it possible?*

But is religious equality, even before the law, possible? We are bound to say that it is not. If there is to be an attempt in this sense to ensure religious equality by disestablishing the Church of England according to the Liberation Society's programme, religious equality, as contemplated by this idea, could only be ensured as extending to certain sects, otherwise the privileges contended for must be extended to a far wider area than is contemplated by the

argument for it as generally understood by the people. If the Church were disestablished with the view of conferring upon all forms of religion equality before the law, it is obvious that the belief in all tenets and the practice of all forms of religion must, without any interference or restrictions by the State, be allowed the fullest liberty by the groups of people who adopt them or profess them, altogether irrespective of their character, otherwise the religious liberty would only mean liberty to adopt, profess, and practise such forms of religion as the State in its judgment and according to its discretion permits to be adopted, practised, and propagated. But we can easily imagine certain fanatical people, on highly conscientious grounds, adopting, as articles of faith, forms of religion which, both with respect to the opinions held and practices observed, might be outrageous to society, and a danger to the State. Such has been the case in days past in the history of both Churches and nations, and there can be no guarantee that history would not in some form or other repeat itself. In that case the State would undoubtedly, correctively or, if need be, repressively interfere, and it would, on the theory of religious equality, naturally be met with the cry of right to religious equality, with the plea of conscientious convictions, and with the protest against persecution of its subjects. *It* would be no sufficient answer by the State to such *of its* subjects, that if they brought their religious ideas and practices into conformity with the ideas of society and with its own ideas of what was proper and becoming, they should enjoy religious equality. Logically, such subjects of the State could reply, "*We* must be the judges of our own ideas and practices of religion, and if you interfere with these you deprive us of religious equality; for you, after disestablishing the Church in the interests of legal religious equality, are refusing us the right of the recognition and protection of the law on the grounds that, after having intruded your inquisitory power upon us, and examined our form of religion, you—the State—speaking in the name of society and yourself, say that you cannot approve of it." For instance, suppose a

sect arose, claiming as a part of their religious equality, on alleged purely religious grounds, the practice of polygamy or something worse, for we need not enter into details here—it is sufficient to revert in memory to the fact that numerous sects have arisen in the history of Christianity adopting forms of religion which no civilized State could countenance in its midst; or supposing some sect arose having for articles of its creed the abolition of monarchy or the adoption of communism, or that it was a sin to hold any civil office; surely the State could not by its laws extend to such a sect the same recognition and protection in its faith and worship as it would extend to hundreds of other sects of a very different character! Yet religious equality before the law, carried to its logical results, would require the State so to act.

## II.

### *Logical Results of Religious Equality before the Law.*

But take even the case of the state of things now existing in this country, and the enforcement of religious equality before the law is, strictly speaking, utterly impossible. Let us refer, for instance, to the matter of elementary education. The Church of England is ousted from certain schools on the plea that on the subject of education there must be perfect religious equality. Religious equality to whom? Why, to certain religious bodies who are jealous of her position and power, and in order that they may be equal with her with respect to the part taken in the work of elementary education. Well, what happens? The schools are placed under the control of a School Board. Its members are elected by the ratepayers. Whether they are the true representatives of the majority of the ratepayers is not, for the purposes of our argument, the question. They are elected, and they have the management of the schools. Well, what kind of education shall they decide to give the children? If they oust from their syllabus of teaching the Church of England programme of religion, and adopt some

indefinite and colourless programme, they teach, at the expense of the whole of the ratepayers and the State, a kind of religious teaching not approved of by Church of England parents, who naturally cry out, "Why cannot we have our children religiously educated as we wish?" The answer is, "We educate the children in those general truths in which the ratepayers as a rule agree; you must teach the more definite religious truths yourselves." But the infidels come forward, and, as subjects of the State, they demand that the Bible shall not be read in the elementary schools at all. They say, and with some show of reason, "It is all very well for you religious sects and the Church of England to come to a compromise between yourselves, and to agree to teach in these schools the common truths of Christianity, but we do not believe in Christianity at all. Are you, in the name of religious equality, going to take our rates and taxes and apply them to the propagation of religious ideas that we do not approve of? Is that your religious equality?" Well, we will suppose that to meet these demands the infidels are taken into the compact and compromise, and the teaching in the schools is confined to an inculcation of belief in God and the observance of moral duties which arise from that belief. The atheistic ratepayers come forward and say, "It is all very well for you Churchmen, Dissenters, and infidels to agree to a truce, and teach only belief in God and the observance of natural religion, but we do not believe in God, nor in any form of religion whatsoever, and, being payers of the rates and taxes out of which these schools are supported, we claim, in the name of religious equality, to be taken into the truce, and we demand that in the schools which we support the name of God shall not be mentioned at all, and that no creeds or religious obligations of any form whatsoever shall be inculcated."

This is only carrying the argument of religious equality before the law to its logical and, we think, reasonable issue; and it is evident, without further comment, to what absurdities in the matter of education the theory might reduce us.

The same argument would apply to using the Name of

God in State documents; to opening the Houses of Parliament with prayer; to the use of the phrases, "By Divine Providence," or "By the grace of God;" to preventing any infidel or atheistic form of service at a funeral in a churchyard or cemetery; and in hundreds of other instances which might be mentioned. No doubt religious equality before the law is only contemplated at present as extending to the religious sects as against the Church, but it is evident that, this once granted, there are other sections of the community, infidel and atheistic, who will demand that it shall be extended, in all respects and without limit, to them.

Are the would-be Disestablishers and Disendowers of the Church for the sake of ensuring religious equality prepared to recognize this claim, and to grant it?

It is well that they should consider this matter fully, and decide what their answer will be, before they proceed further in a work which, logically, must lead, in a free country like England, to utter confusion, under the plea of securing religious equality.

## 12.

### *Limitations of Religious Equality in Ireland.*

It was said that the disestablishment of the Irish Church would bring about religious equality in the State and before the law in Ireland. This has not been so. As we have shown, it is almost impossible by any legislation to bring about such a result. The State in that country, it appears, assigns to men honour and precedence on strictly religious grounds and considerations, notwithstanding the disestablishment of the Irish Church to ensure legal religious equality. The following is the latest illustration of this fact:—

The *Dublin Gazette* contains the following order, settling, for the first time, the question of precedence between the Protestant and Roman Catholic Archbishops and Bishops in Ireland:—"Victoria, R. Her Majesty, having been pleased to approve of a rule of precedence applicable to Ireland, by which for the future all Prelates of the

Protestant Episcopalian Church in Ireland are to have precedence, as hereafter set forth, we do hereby order and direct that all Archbishops of the Protestant Episcopalian Church, and all Roman Catholic Archbishops in Ireland, are to have in Ireland the precedence which belonged to Archbishops of the Established Church of Ireland before the passing of the Irish Church Act, 1869, and are to take rank *inter se* according to the dates of consecration as Archbishop or translation as the case may be, the Primates of both Churches having prior precedence among such Archbishops. We do further order and direct that the Archbishops of the Protestant Episcopalian Church in Ireland, and all Roman Catholic Bishops in Ireland, are to have in Ireland the precedence which belonged to Bishops of the Established Church of Ireland before the passing of the Irish Church Act of 1869, and to take rank *inter se* according to the dates of consecration; and we also declare that the foregoing rules are not in any way to interfere with the rights of precedence secured to the Archbishops and Bishops of the late Established Church of Ireland by the 13th section of the said Act. —SPENCER."

The above order, which was quoted in the daily papers of April 4, 1885, is a singular comment on alleged religious equality as recognized by the State in Ireland as the result of disestablishing the Irish Church.

Why, if there be strict recognition of religious equality in that country, are the bishops of the Irish and the Roman Catholic Churches assigned their order of precedence at Court, while no notice whatsoever is taken of the *social* status of the ministers of other religious bodies?

Here is a case for the Liberation Society to look into; here is a grievance for it to have remedied. Here is, from its point of view, an utter failure of the carrying out of the principles of religious equality by the State which were supposed to have been guaranteed by the disestablishment of the Irish Church.

Strictly on the grounds of their being ministers and representatives of the two great religious communions, are the bishops and archbishops of the Irish and Roman Catholic Churches assigned their order of precedence at Court, to the utter ignoring of the ministers of other religious bodies. And yet we doubt whether all the efforts of the Liberation Society could induce the Government to rescind such *an order.*

## 13.

### *The Alleged "Political Injustice" Argument.*

That the State in many things must of necessity take a course with which many, and indeed great numbers, of its subjects cannot agree is a fact beyond dispute.

To begin, there are many important offices in various departments of the State which are occupied by persons who are in receipt of large stipends, which stipends are attached to such offices. Many persons who have to contribute to the maintenance and support of these persons may think the offices needless, and the stipends attached to them exorbitant, if not a waste of their money, but nevertheless, as subjects of the State, their personal opinions are not taken into account, but must be subservient to its policy, and they are compelled to support, by the taxes which they pay, that which they do not approve of. So there are numbers of people who altogether object to a standing army and to the maintenance of a costly and powerful navy, who object to war in any shape or form, who protest against the retention of our numerous colonies, who oppose the annexation of new countries, and who think that all the heavy expenditure incidental thereto is a foolish and even wicked outlay. Still, as subjects of the realm, they are committed to all these, and have to pay their share of taxation for their support. Then there are large numbers of the electors of the kingdom who do not believe in the system of education enforced by Act of Parliament in Board Schools, who object to the education rate as having to pay for an education which they do not approve of, who think it an injustice to be taxed for free libraries which they themselves do not want, and never use. There are others who object to the Vaccination Act, and who regard it as not only an infringement, but a cruel violation of the laws of health and personal liberty, and who think vaccination to be simply a medium of conveying from one person to another physically dangerous, demoralizing, and depraving infection, and, as a consequence,

communicating to the vaccinated person contagion of a most degrading character; but the State takes quite another view of the subject, and enforces vaccination.

On all hands sections of subjects of the realm are met by courses of conduct and proceedings on the part of the State which are diametrically opposed to not only their individual opinions, but to the opinions of voluntary bodies of men banded together for the purpose of counteracting special departments of State policy and State action; but, notwithstanding all this, as a rule, by far the greater part of the people who constitute the State approve of its measures, and support its action, nor do they for one moment imagine that their fellow-subjects of the State who do not approve of its policy or legislative action in such matters as we have specified, suffer any injustice whatever, or have any reasonable grounds of complaint or grievance.

14.

*Liberationists do not regard it as a Political Injustice to have their own Opinions enforced by Law upon Churchmen.*

Moreover, extraordinary as it may seem, it is nevertheless the fact that the very men who most loudly complain of the action of the State in giving legislative force to ideas which are contrary to their own personal convictions, are the very men who have not the slightest regard for, nor sympathy with, the convictions of others to which they are opposed, and who do not in any way deprecate the fact, when the State is found in its action to pursue a course antagonistic to their fellow-subjects from whom they differ.

For instance, it is notorious that while numbers of the Liberation Society complain of the existence of the Church of England as in every way representing and embodying with State sanction ideas pertaining to religion in some respects contrary to their opinions and convictions, and on this ground ask the State to consider their opinions, convictions, and so forth, and, in accordance with these, to

give them relief by abolishing the Church as the Established Church of the country, they are the very men who completely ignore the fact that Churchmen have also feeling and convictions relative to their mother Church of England, and that it could only be by doing violence to consciences, and doing injury to the religious interests of Churchmen, that the State could possibly yield to their demands as members of the Liberation Society opposing the existence of the Established Church of England.

Again, when Churchmen declare that they regard it as unfair for the State to commit them to the sanction of a system of education in Board Schools, which, on account of its non-religious and compulsory, and exceedingly expensive character, they cannot approve of, Liberationists cry out against Churchmen, branding them with the words "bigoted" and "narrow-minded," and treat their opinions as unworthy of consideration in the matter. Yet these very men, if they had the chance, would think it no political injustice to Churchmen not only to take away from them by the force of an Act of Parliament, all their ancient religious rights and privileges, and that ecclesiastical constitution of the Church which they hold so dear, but would, without a single feeling of regret, make Churchmen support by a heavy tax and rate a form of education of which they do not approve.

## 15.

### *The Statistical Argument.*

Of late years there is no argument that the opponents of the Church of England, as the Established Church, have used against her with more frequency and persistency than that which may be called the Statistical Argument. Statistics as to the relative numerical strength of the adherents of the Church compared with the adherents of Dissent, obtained by the Government by means of a column to be filled up in the census paper, they will not have at any price; they have opposed it on each occasion of the taking of the census with

all their united force. Each time the Government, yielding to their coercive threats, have given way. Though why Dissenters should object to what is called a "Religious Census" being taken in England as a part of the United Kingdom, any more than Dissenters should object to it in Ireland, it is difficult to see, except the fear of being found, as the result, notwithstanding all their boastings as to their numbers, in a comparative small minority.

Nevertheless, they seem to have a wonderful love for what may be called amateur statistics, but always on the understanding that they select their own basis of data, and make their enumerations thereupon in their own peculiar way. The data with which they chiefly concern themselves, with a view of showing the Established Church compared with Dissenting bodies to disadvantage, are, first, the number of places of worship; secondly, attendances at them on given occasions.

## 16.

### *How Dissenting Places of Worship can be multiplied.*

Now, first with respect to the number of dissenting places of worship, Dissenters have not much difficulty in multiplying these, and in getting them officially recognized, recorded, and returned in the official blue-book register of the Registrar-General. The following is the marvellously easy and simple process by which to constitute a Dissenting place of worship and secure its entry as such in the Registrar-General's list. It is necessary only to select any enclosed building or place of meeting, whatsoever it be—regular hall, assembly-room, theatre, private house, room in a cottage, wooden shed, railway arch, or whatever kind of building it may be—in which persons are alleged occasionally or regularly to meet for prayer, preaching, or any kind of religious exercise, and to pay two and sixpence to the Superintendent Registrar of the district, and he will in return certify it to the Registrar-General at Somerset House as a Dissenting

place of worship. The building—shed, cottage, schoolroom, theatre, agricultural hall, or whatsoever it may be—need not be certified nor used for any particular religious body. After it is certified as a place of worship, there is no guarantee whatsoever that it will continue to be used as such, nor even to be used at all, nor is there any provision to ensure its being taken off the Registrar-General's list if it be not so used, or when it has ceased to be so used. So that the Registrar-General has no means of knowing with any degree of certainty whether any but such chapels as are licensed for marriages continue to be used as places of worship after they are entered upon his list. Those he can check, because he has a return of them every year.

Still further, buildings of whatsoever kind so certified as Dissenting places of worship are not necessarily the property of those who certify them, nor need they necessarily be rented by them. Both as to ownership, tenure, and tenancy, they may be the property of others. And yet the total number of all these medley buildings is, for all purposes of controversy with the Church, without any explanations as to their very varying nature, flaunted before the eyes of the British public as affording a great proportion of the accommodation for public worship which has been provided by Dissenters for the population of the country.

### 17.

### *Provision for Public Worship in the Church of England and in Dissent contrasted.*

And mark what kind of accommodation for public worship a great proportion of this is as compared with the accommodation which the Church of England has provided in her cathedrals and costly parish churches, and in her mission chapels, many of which are as substantial and commodious structures, and involve as great an outlay, as regular and permanent Dissenting chapels. It is necessary to emphasize the fact that a mere covered-in enclosure of

any kind, not necessarily the property of, nor rented by, those using it, not necessarily identified with any existing religious body, nor representing any particular creed or form of worship, without one atom of furniture in the interior, or anything to show that it is in any way adapted for assemblies of people, may be certified to the Registrar-General as a Dissenting place of worship, and appears in due course on the Registrar-General's list amongst the rapidly manufactured places of Dissenting worship which are alleged to afford so great a proportion of the provision made for the public worship of God in the land, and whose aggregate number is so often quoted, with something like an air of triumph, against the total number of places of worship provided by the Church of England.

Now, we would not be understood to depreciate the use of any place, however unsuited or humble it may be, as a place of united prayer and worship. Let that be clearly understood. But what we deprecate and most strongly protest against is that, without the necessary explanations to the public as to the character of a very large proportion of the buildings certified as places of Dissenting worship to the Registrar-General, people should quote the extent of the accommodation alleged to be furnished by such medley places as we have described, leaving the public to draw their own natural conclusions that provision for public worship must mean a real genuine provision for it in the sense in which an ordinary church or chapel, with a minister attached, provides for it. This is most mischievously to mislead the public as to the relative strength in this respect of the Church and Dissenting bodies.

## 18.

### *Differences between Church and Chapel Extension in General.*

A place for Dissenting worship, as we have already indicated, can be opened by anybody, anywhere, in any kind of covered enclosure, unconnected with any existing body,

unrepresentative of any form of faith by persons who object to be designated, or any mode of worship, and without any pledge or guarantee whatsoever that it will be used for worship of any kind. And yet, being on the Registrar-General's list, it will be reckoned and publicly quoted in and out of Parliament, as the emergencies of opponents of the Church require, as a Dissenting place of worship.

Utterly different from this state of things is that which prevails in the Established Church. No new parish church can be built unless it is ascertained that the circumstances of the parish and population require its erection. Consents of the incumbent of the mother parish, the bishop, and the patron of the mother parish, etc., must be obtained, and certain precautionary ecclesiastical requirements must be conformed to, before final consents are given. Then a freehold site must be secured, plans of a substantial, permanent, and in all respects suitable building must be submitted, and money must be raised by the voluntary promoters of the scheme, so as to clear the new building from debt before the bishop will consecrate it. Prior to consecration by deed, it must be conveyed to the Ecclesiastical Commissioners as a Church body to hold it in trust for the Church, and when consecrated it is alienated for ever by that act from all profane and common uses, and is henceforth dedicated for ever to the worship of Almighty God.

In contrast with this mode of procedure in the work of Church extension, even the regular chapels of such influential religious bodies as the Wesleyans, Baptists, and Independents, let alone those of unimportant sects, may be built entirely from motives of sectarian jealousy, without any consideration whatever for the provision already made for the religious wants of the population of the locality; their sites may be only leased or rented; they need not necessarily be built involving any considerable expenditure, or with a view to permanency; they may be opened—as they often are—in debt, and heavily mortgaged to the extent of a half or two-thirds their entire cost;[1] and they may be closed,

[1] "In the last report of the Star Life Assurance Society, in the

rented, or sold for secular purposes if they are not found pecuniarily profitable. Surely it is not fair, then, to compare provision made by such buildings for public worship with the provision made for the same purpose by the stately, costly, and permanent cathedrals and parish churches in the land!

## 19.

### *Mission Churches.*

Then very much the same may be said of the nearly five thousand mission churches, etc., which the Church of England within the last few years has erected in districts and localities in which there are not the circumstances requiring the building of parish churches. These are not built by irresponsible individuals, nor are they provided, as Dissenting chapels too frequently are erected, from motives of sectarian jealousy; but in every case it may be safely said that they are built to meet the real and urgent wants of the population, under the supervision of the bishop of the diocese, who ascertains their suitability for religious services before he licenses them for public worship. And it may be confidently stated that in a great proportion of cases even these *mission* chapels are as commodious, and involve as large an expenditure in their erection, as the ordinary run of Dissenting chapels. So that in the matter of statistics of the accommodation for public worship as provided by the Church and Dissent for the people, there is no comparison between the permanency of the one and the permanency of the other,

schedule of investments are ranked the sums of £184,572 8*s.* 8*d.* advanced to trustees of Wesleyan Methodist Chapels, £22,000 to trustees of other Methodist Chapels, £32,255 to trustees of Congregational Chapels, and £54,455 to trustees of Baptist Chapels. Thus one company alone has no less than £293,282 8*s.* 8d. of its capital invested in chapels. These buildings are, to a great extent, as is well known, put up speculatively with borrowed money, and it is the state of feeling which this system engenders, especially in Wales, on which Liberationist agitators trade with so much effect."—*National Church*, April, 1885.

nor in the relative expenditure, nor in the nature of the accommodation provided.

To compare the same 21,000 medley places of Dissenting worship, which are alleged to exist, with the some 15,000 parish churches and the nearly 5000 mission churches, etc., as if, in the provision respectively made by them for public worship, they bore any resemblance to each other, is simply and entirely most seriously to mislead the public.

That Dissenters have in many large towns fine, costly, and commodious buildings, we readily admit, and for these we give them credit; nor do we seek in any way to depreciate the substantial and commodious character of the regular chapels in the main, nor do we in the abstract speak disparagingly of any place whatever used for the worship of God. It is only when the opponents of the Church thrust misleading statistics on the public that we are obliged, for the sake of truth, to go fully into odious, contrastful particulars, of the facts of which any one can satisfy himself who will go into the subject and test our statements.

## 20.

### *Attendance at Public Worship.*

This is another subject on which opponents of the Church are fond of collecting amateur statistics with a view of disparaging the Church and showing Dissent to advantage. We entirely dispute the accuracy and value of their statistics, even taking their own basis of calculation on such a subject as this.

Even if newspaper representatives in certain towns were perfectly correct in their estimate of numbers alleged to have been present on a given Sunday in the churches and in the Dissenting chapels in any town, such statistics could not be reliable nor authoritative in showing the numbers of the relative adherents of church and chapel. It is easy to set such a movement on foot in certain selected towns in which Dissent, from causes in the past, is yet strong, and

has a considerable, if not numerous, following. It is also a fact beyond dispute that great numbers of Churchmen do not look upon it as anything out of the way to go on certain occasions to chapel.

The fact will also be admitted that a large number of people divide their attendances at public worship between church and chapel, and are influenced for their temporary attendance at either by the circumstances of the attractive character of the preaching and of the services. But it would be most mischievously misleading to suppose that great numbers of people who go to chapel are therefore necessarily Dissenters, or even that, being Dissenters, they would by any deliberate act renounce their rights and privileges in the Established Church. "I am a Churchman, but I go to chapel sometimes," is not an unfamiliar expression, and describes the position of very many thousands of chapelgoers. But tell such people that they must come to a decision, and exclusively attend one place or the other and label themselves, and they will at once make their choice in favour of membership of the Established Church.

This fact is known right well, and *it is at the basis of the terrible dread that political Dissenters have of a religious census.*

But even if it could be shown that as many or more people attended chapel than attended church, that would be no reason for taking away the permanent provision which is made by the Church in the country for religious worship, nor for debarring present Dissenters from the opportunity of returning to the Church when they have tried and become tired of sect life, as is the case every year almost with thousands of people.

Nor would it be just to Churchmen, who are faithful to their Church and value her great religious advantages, to take from them their rights and privileges because a large proportion of their fellow-countrymen for the moment will not share the Church's privileges in common with them? From whatever point of view, therefore, we consider Dissenting amateur statistics as to accommodation for public

worship or attendances at public worship, they are utterly worthless as furnishing an argument in the question of proposed disestablishment.

21.

*The Alleged "Practical Failure" Argument—Its Fallacies.*

The opponents of the Established Church assume that the Church is not only bound to attempt certain works, but that she must accomplish them to a degree almost amounting to completeness and perfection, and that, falling short of this achievement, her efforts must be branded with the words "Practical Failure," and that she herself as an Institution must be doomed to destruction. They themselves assume the prerogative of determining what she ought to have done; they sit in the judgment-seat to adjudicate on how far she has carried out their ideal, and the sentence of "Practical Failure" which they pronounce against her they regard as a sufficient ground for her extinction as the Established Church of the nation.

The same argument would doom to destruction every social and political institution in the kingdom, Parliament, the Crown, and even the State itself, on which its opponents from their point of view think themselves entitled to write the words "Practical Failure." The same argument would doom to destruction and extinction every Dissenting community which had not perfectly carried out its own boastful programme of purity in its fellowship, spirituality and unity in its communion, orthodoxy in its pulpit, evangelistic labours to those outside its brotherhood, repression of vice and immorality amongst the populations to which its ministrations extended, and reclamation of the ungodly to a holy life. Judged by such a principle, where is the religious society, or organization, or agency, which ought to survive, seeing that in a sense "Practical Failure" may be written against them all?

Nay, further, might not this fallacious principle of judgment be equally applied to the Church of Christ in every

age, in every nation, and altogether irrespective of whether or not it maintained any intimate relation to the State? Still further, might it not be applied to the early Christian Churches, to the ministry even of the Apostles, if not to the very ministry of our Blessed Lord Himself, as well as to His gospel of glad tidings which He has left as a precious heritage to His Church and to the world?—seeing that there are people to be found who would write upon all these the words "Practical Failure."

22.

"*Failed with Respect to securing Uniformity of Worship.*"

It is, no doubt, a very beautiful idea to aim at securing uniformity in public worship. The Church in the past, whether rightly or wrongly, with the co-operation of the State, made efforts in that direction. Those efforts have undoubtedly failed. But uniformity of worship was not essential to the Church's life, her efficiency, nor even her unity or order. The Church never staked her existence upon securing it. The State by no statute or decree ever declared that her existence as a national Church depended upon her securing it.

There were always those within her fold who *regarded* attempts at uniformity as mistaken efforts, and who believed that she could do her work better retaining those different diocesan uses which were perfectly consistent with ecclesiastical unity. The Church is outliving her own mistakes. She has outgrown arrangements that she consented to make for the regulation of her worship in years past. She has learnt by painful experience the needful lesson—that there may be divers ministrations, but the same spirit; and for this some of her opponents would write against her "Failure," and doom her to extinction, forgetting—if they ever noted the truth at all—that her very diversities proceed from increased fulness of religious life, which seeks expression for itself in various ways perfectly consistent with the unity of the Church.

## 23.

### *Denominational Divisions.*

The Church is alleged to have failed because she has not succeeded in preventing denominational divisions.

This is a singular argument for a Nonconformist to bring against the Church, and more singular still is it that Liberationists should make it one of the grounds on which they demand her destruction.

Quite apart from the operation of the Acts of Uniformity up till the date of 1662, political Nonconformists politically, and religious Nonconformists religiously, who remain in a state of separation from the Church are certainly responsible for the state of things which the Church is blamed for not preventing. But, altogether apart from the Church being an Established Church, no Church can ensure against schisms, divisions, and separations in and from her communion. The Apostolic and Primitive Churches could not guarantee themselves against them. Not a single body of the Dissenters themselves can guarantee itself against them. On the contrary, dissent is prolific of dissent. One sect becomes the mother of many sects, and yet the opponents of the Church allege prevalent denominational divisions in England as a proof of the Church's failure, and as a reason for her disestablishment and disendowment. Are there fewer denominational divisions in America and in the colonies, where there never has been an historic established Church?

## 24.

### *Internal Divisions in the Church Herself no Argument for Disestablishment.*

When this reason is assigned as a ground for the abolition of the Church of England as the established and endowed Church of this country, there must be, on the part of those who advance it, an utter forgetfulness of the fact that internal

divisions in the Church are in no way the necessary result of the position which the Church occupies at the present time in this country, and there must also be a complete overlooking of the state of things which prevailed in some of the Apostolic Churches, notably that of Corinth, the divisions in which are graphically described in the Epistle of St. Paul to the Corinthians. There must also, for the time being, be a putting out of sight, on the part of those who use such an argument in furtherance of the cause of disestablishment and disendowment, the many and violent schisms and divisions which rent the Primitive Churches long before any branch of the Church succeeded in gaining for itself a position which necessitated the recognition and favour of the State.

On whatever grounds the abolition of the Established Church may be urged, it certainly cannot logically or consistently be advocated by Dissenters upon this ground, for their own numerous and continually multiplying schisms and divisions in their unestablished religious communities far exceed anything of the same kind which exists in the Church. If it could be shown that internal divisions exist only in Established Churches, that certainly would constitute some reason to consider whether such divisions did not exclusively proceed from the principle of Establishment, but as their prevalence in Dissenting bodies clearly shows that they cannot be traceable to this source, they cannot logically or fairly be permitted to form a portion of the basis on which to rest the argument for disestablishment and disendowment.

## 25.

### *The Alleged Failure of "Evangelization of the People" Argument.*

To say that any Church or religious body has been in every way and to the fullest extent faithful in obeying the command of Christ, "Go ye into all the world and preach the gospel to every creature," would be to claim for such

church or religious body a faithfulness in the discharge of even its own sense of duty in this respect—would be to arrogate to itself a condition of perfection and blamelessness, the very assertion of which on its own behalf would show it to be possessed of Pharasaical self-satisfied righteousness, or to be the victim of self-deluding ignorance of those imperfections which at the best characterize all human societies, and from which no part of the Church of Christ on earth is free.

What is meant by the charge that the Church has failed to evangelize the people? Is it meant that, with rapidly and vastly multiplying populations gathering round, and springing up in, new centres of manufactural and commercial industries, the ancient organization of the Church has not proportionately adapted itself to the new state of things so as fully to bring her ministrations to multitudes of people who have formed new towns and cities? That is but an argument for giving new helps and facilities to the Church the better to accomplish that important work in which she is alleged to have failed. Surely it could not be expected that, given, say, in a widely extended and thinly inhabited Yorkshire or Lancashire parish, having, perhaps, a small church and a miserable endowment, of not more than £200 a year, that if the discovery of coal or iron, or the establishment of mills, led to an immense increase of the population as from hundreds to many thousands, either the ancient parochial division or the endowment of the ancient parish would be to blame if not found equal to, and adapted to, the new state of things. The ancient endowment and parochial division which had been found sufficient for the district in the normal state of things, could scarcely be pronounced a failure because found insufficient to meet the requirements of the new order of circumstances which had unexpectedly sprung up. This would be a reason for adopting and extending the Church's ancient organization to the new state of things, and providing new endowments to secure for the people religious ministrations, rather than depriving them of the benefits of the parochial organization and

endowment already in existence. And to this work of parochial organization, extension, and the providing of new endowments from voluntary sources, the Church has earnestly and successfully given herself from the early part of the present century.[1]

Is the Church alleged to have failed because, in the face of all the obstacles and difficulties with which human nature ever confronts the gospel of Christ, she has not succeeded in being instrumental in morally and spiritually coercing men into the practice of a religious life, and in reclaiming the people to whom she has ministered from irreligion, immorality, and crime? Then we say no charge of failure is brought against her which could not with equal justice be brought against every branch and ministry of the Church in every country, in every age, and in every condition with respect to relations to the State, established or unestablished. There is not a Dissenting body in England but has failed in this respect; and if the Church were to be abolished because of such failure, the abolition of every Nonconforming body in the country might with equal justice or injustice be demanded on the same grounds.

## 26.

### *The Alleged "Breakdown of the Parochial System."*

If the parochial system had broken down, that would be no sufficient argument for its destruction, unless, indeed, we are prepared for the logical extension and application of this argument—namely, to destroy everything of which it may be alleged that it has broken down. The argumentative chasms between the assertions made concerning the Church, even if true, and the conclusions drawn from them by opponents of the Established Church, are very great indeed. In Church matters, a peculiar method of reasoning is adopted by the adversaries of the Church which is rarely followed with respect to other subjects. When, in matters of State, certain

[1] See pp. 219–23.

organizations are said to have broken down, we do not abolish them; we amend, extend, adapt them, and make them more elastic and more efficient, such as in the case of the extension of the franchise, and in the rearrangement of electoral areas, and in the redistribution of parliamentary seats. The argument that the franchise was too limited, and that the representation of the people, both as to the number of electors and the distribution of seats, was so imperfect and were such failures as to call for extinction altogether, would scarcely be seriously received by the English people. Yet this is really the argument which the opponents of the Church seek to enforce in calling for the disestablishment and disendowment of the Church, on the alleged ground of the breakdown of the parochial system.

27.

*But has the Parochial System Broken Down?*

We say No. "Breakdown" is not the word to describe it in any of the respects in which it is alleged to have failed. The sources of the shortcomings of the parochial system, so far as they have arisen, have been that circumstances have not always facilitated or even allowed of its extension, expansion, and elastic adaptation with sufficient rapidity to meet comparatively sudden concentrations of populations in given localities, so as to make provision on their behalf for the means and opportunities of public worship, and for the ministrations of the gospel on their account.

It is not the parochial system which has failed. It is the absence of the parochial system in its effective provision and working for Church and general religious purposes which is the source of any proved failure of the Church by her ministers and ministrations to reach and evangelize the people.

But all this, as used as an argument, tells strongly for the extension of the parochial system, and not for its abolition. It is admitted by the strongest opponents of the Church, in

the following words, that the parochial system is admirable. "It is an arrangement," say they, "in which the blessings of the gospel are assumed to be brought to every man's door, and which professedly gives to all the inhabitants of a certain district, whether they be rich or poor, a legally appointed spiritual guide, whose duty it is to administer the consolations of religion, and generally to care for the welfare of the whole community over which he is placed. It is," say they, "beautiful as a theory, and it is not surprising that it has won the admiration of men of very different orders of mind."

If this be, as it is, the deliberate commendatory description of the parochial system by the opponents of the Established Church, of which this system is an essential integral part, then why attempt to abolish the Church, which is essential to the existence of the parochial system in any form? Why deliberately attempt to get rid of a system which, being admittedly so beautiful in theory, only wants expansion and adaptation to make it more and more effective for good, until it has attained to a state of comparative approximate practical perfection?

What reason, what sense, is there in trying to abolish a principle which is confessedly admirable in itself, on the grounds that its working is imperfect or a failure, when the principle itself is not to blame nor at fault, but when the defect of its operation lies in the want of greater facilities to give it fair scope for development and usefulness?

## 28.

### *The Pocket Argument.*

For years past political Nonconformists have been sounding in the ears of Churchmen and the nation the ardent expressions of their professed earnest desire to give the Church more liberty by the process of disestablishment. They have stood upon a professedly high religious platform; they have professed to be actuated by the purest motives for

the best interests of religion and the Church herself, in their efforts to bring about the severance of the union between Church and State. The very society under whose banner they have been carrying on their mission of antagonism to the Established Church changed its name for the express purpose of making its object of liberating the Church clear, and so was recalled the *Liberation Society*.

But now all is changed, and at the present moment the world witnesses the extraordinary spectacle of seeing religious men, ministers, leaders of Nonconformity, solemnly change their ground, and enter into a compact with men opposed to all forms of religion, while their foremost appeals to the populace are not for the liberation of the Church, but the complete confiscation of her property. Their appeals are now recklessly and infectiously made to the cupidity, the avarice, and the pockets of those who, their passions once stirred, and their prospect of monetary gain once made clear, may not only be prepared to go in for the spoliation of the property of the Church, but the confiscation of all property in the kingdom. This is the last argument that men can use. It will not, of course, stir up religious-minded Nonconformists against the Church, in whom we have confidence that they would not be influenced by such sordid motives in any antagonism to her. But that ministers of religion and influential leaders of Nonconformity should use such arguments and urge such motives for the disestablishment of the Church, to classes of society who may, and possibly will, be influenced by them, is one of the most startling developments in the history of Nonconformity—unworthy of its whole religious history and traditions, and in the presence of which one can but stand aghast, scarcely knowing what to say.

## 29.

### *The Paradoxical Character of the Disestablishment Argument.*

One of the most singular features in the movement for the disestablishment of the National Church is that, while

its promoters profess to deprecate the interference of the Legislature with matters of religion, they seek the coercive power of an Act of Parliament to put down and utterly abolish the only religious institution whose history covers the whole period of the life and growth of the English nation. It is a striking illustration of the extent of inconsistency to which the spirit of jealous sectarianism, and the spirit of *free*-thinking non-religionists, can commit those who yield themselves to its domination. It is a strange spectacle to see Nonconformists who this minute are loud and vehement in their demands that neither Parliament nor the State shall interfere with religion, and in the next minute demand that the House of Commons, as the national assembly, shall pass an Act to put down an ancient form of religion of which they do not approve. Yet this is just what the Political Nonconformist Liberation Society and its adherents are actually doing.

Of course they would say that they do not seek thus to put down or abolish religion in the abstract, but simply the framework and organization of a form of religion with which they cannot agree. It is impossible, however, for all practical purposes, to make such distinctions. Religion, as incorporated and ecclesiastically expressed in a religious society, cannot be dealt with apart from the framework and constitution of that society. Coercive Acts of Parliament cannot be brought into operation against the framework and organization of a religious society without to a great extent being brought to bear coercively on the religion enshrined and embodied in them, and of which they are but the outward expression. It is difficult to see how an act of disestablishment, as applied to the English Church, could be regarded as not touching the spirit and soul of religion, while abolishing the ecclesiastical form or body in which that soul exists and has existed for hundreds of years. Tell any man possessed of the smallest proportion of common sense that you deprecate the interference of the Legislature with any given *kind* of social institutions; and in the next breath tell him *that*, nevertheless, you are going to strain every nerve and

put forth the most resolute efforts to abolish some social institution which is almost as dear to him as life itself; and then try to persuade him that, although you propose to take this course, he need not be alarmed, but may be reassured that the repressive and destructive Act of Parliament with which you seek to destroy his loved institution will not touch the abstract idea which lies at the base of it, and upon which it is founded, but that it will simply sweep away its external expression—that is, its visible framework and organization by means of which it has a corporate existence—and his indignant answer might be anticipated, and its very words almost predicted.

## 30.

### *What Liberationist Consistency requires.*

Liberationist consistency, in fact, requires that no attempt should be made to take from the Church by Act of Parliament that which was not given by Act of Parliament.

However much we might differ from Liberationists if they confined their proposals within this simple, definite, and understandable area, we should at least be compelled to admit their consistency, and we should be able to see at a glance that they were carrying on their operations on an intelligible basis, but when we see them urging the State to take away from the Church by Act of Parliament that which the State never gave by Act of Parliament, or by any legislative instrument, and yet all the time professing their horror at the very idea of the State interfering with religion, then we say, judged from their own religious standpoint, and measured by their own standard of religious principle, they are, by their own profession as against their acts, clearly adjudged and convicted of the most manifest religious and political inconsistency.

What we mean is this: if it can be shown that the Church's union with the State was the result of any definite *legislative act,* or series of legislative acts, then we can

understand the perfect consistency of Liberationists demanding that, as by an Act or Acts of Parliament that union was created, so by the same legislative means it shall be destroyed.

But when it is proposed that the operation of the Act of Disestablishment shall not be based upon the results of such an inquiry, and more than that, shall not even be confined within the limits of disestablishment pure and proper, but shall actually extend to the forcible taking possession of the Church's property, and its alienation, together with the alienation of her parish churches, to other uses, and the entire dissolution of the whole legally recognized ecclesiastical framework and organization of the Church herself as she now exists, then we say that an Act of Disestablishment is sought from the State to not only separate from the State, but to destroy a system which the State never organized and never created. The attempt on the part of Liberationists to obtain an Act of Disestablishment upon these lines and for these purposes is a most flagrant violation of their own principles, and is a proposal of a kind and magnitude without a parallel in the whole history of the Christian Church.

We could understand the consistency of Liberationists, according to their professed principles and policy, seeking to readjust such relations of the Church and State as, *in the* course of history and in the greatly altered circumstances of both institutions, may have become complicated and confused; we could understand them wishing and trying to remove every restraint and hindrance from the Church in the prosecution of her pastoral work, evangelistic labours, and in her councils of self-government and ecclesiastical legislation. In fact, we could understand them trying to liberate the Church from State control, so far as it is possible for any society, civil or ecclesiastical, to be set free from the control of the State in the midst of which it exists, but we cannot understand their consistency, and it is impossible to *understand* it, when they seek by a coercive Act of the State *to uproot* and destroy a spiritual and ecclesiastical institution

which the State never built up, and which is solely the outward expression and form of a religious force and power which are the source and basis of that position which the Church has acquired for herself amongst the people of this country.

31.

*Nonconformists do not seem to object to State Patronage and State Endowments when they can avail themselves of them.*

"The State religion of Madagascar was formerly an idolatrous one. Christianity was introduced, was persecuted, and finally was recognized. So far did State control go that, at the bidding of the king, water was used instead of wine for Holy Communion. But Christianity was not 'established' in the sense of becoming the State religion until the accession of Queen Ranavalona II. in 1868. The ceremony of her coronation took place beneath a canopy on which were blazoned texts from Scripture; on one hand lay the Crown, on the other a Bible. The national idols were burnt, the priests, astrologers, and diviners deprived of office and privilege. Christian ministers took their place. The observance of Sunday was enforced by law. A chapel royal was built within the precincts of the palace. The prime minister, at that time still a heathen, publicly urged the people to become Christians; the queen publicly said, 'I have brought my kingdom to lean upon God.' It was no empty boast. Congregations in one year multiplied threefold, worshippers fivefold. 'A vast proportion of these new converts were only Christians because the Government favoured Christianity, and would probably have become Roman Catholics, or even Mohammedans, with almost equal readiness, had their rulers favoured those forms of religion.' Well might a missionary exclaim, 'The nation has a Church of its own!'

"What, then, about State control? The queen is 'the *trustee for the legi*timate appropriation' of Church property.

No student can enter the Evangelist Training College without applying to the prime minister for the queen's permission. No preacher can be appointed without the queen's approval. When approved, he receives instructions from her, and is 'chiefly responsible to her." In some cases a subordinate officer of the Government accompanies him to his station. This officer usually bears a message from the queen, urging the people to listen to the preacher, and to attend Sunday services regularly.

"What is more, this State Church receives State pay. First, in the way of remission of burdens. Articles for the use of missionaries and their work are admitted into the country duty free. Preachers and teachers are exempted from forced State labour. How great this latter privilege is may be gathered from the pages of the missionaries. Secondly, there is the direct State aid. Sites for churches and residences have been freely granted. About one-fourth of the missionaries, it appears, are paid by Government contributions.

"But it might, perhaps, be supposed that this State Church was of no particular denomination. This is not so. 'The Government have not adopted Christianity in the abstract, but the special Church organization already existing (*i.e.* Independency, which is the profession of the London *Missionary Society*).'

"This is not because there are no other missionaries in the island. On the contrary, the Church of England, the Roman Catholics, the Society of Friends, and the Lutherans all have missions there. But these occupy a different position. Religious equality does not exist in Madagascar. So far from favouring these other societies, the State subjects them to a mild persecution. The Malagasy people 'were intolerant heathens; they bid fair to be intolerant Christians. Their intolerance is of the sly kind, not amounting to open opposition; but the influence of the queen is so strong that, without resorting to violence, she can prevent the people from attending chapels not approved by herself. . . . So many obstacles are put in the way of the missions

established by the Church and Lutheran societies that they will be driven to establish missions in the capital unless more freedom is allowed. The London Missionary Society, however, strongly opposed the establishment of a Church mission in the capital. They actually proposed that if a bishop were sent to the island, he should not be allowed to reside within eight or ten miles of that city.

"If the Church of Madagascar is not an Established Church, we need a new definition of the term 'established.' Anyhow, one would have thought that it was a case, not for the support, but for the attack of members of the 'Society for the Liberation of Religion from State Patronage and Control.'"[1]

## 32.

### *The "Progress of the Movement" Argument.*

There is nothing more remarkable, judging the opponents of the Church of England as an Established Church by their own professions, than the contrast between the pleas which in the past they put forward for the purpose of securing the co-operation of Churchmen in obtaining certain enactments of religious relief from the Legislature, and the historical meaning which they now put upon the fact of their having obtained those Statutes of relief, and the argumentative use which they now make of them. Thus, to encourage their supporters in the present attack upon the established position of the Church, and their attempt to deprive Churchmen of their rights and privileges, and to wrest from her her property, they point to all the Acts passed for the relief of Dissenters from the Toleration Act itself (1 William & Mary, cap. 18) down to the Burials Act (43 & 44 Vict. cap. 41,

[1] See Letter in *Times*, April 25, 1885. Attempts have since been made to explain away State patronage and State aid afforded to Non-conformists in Madagascar, but such explanations do not substantially alter the facts.

1880), and they practically say to their followers, "See how the disestablishment movement has made progress and succeeded all along the line; so you have only to rally round us now for a final effort, and we shall enter the very citadel of the Church herself, raze her as an Established Church to the ground, and despoil her of her property." "We have taken," say they, "her last outworks. We have now but to make the assault upon the Church herself, and only let it be wisely and forcibly made, and, judging from our successful conflicts with her and with the Legislature in the past, we must win."

But the fact is, that not a single Statute in the past granting relief for equal rights and privileges to Dissenters, from the date of the Toleration Act down to the present time, was ever avowedly sought for by them, or granted to them by the Legislature, with the view of disestablishing, much less disendowing, the Church, or, in other words, as detailed steps of what the Ven. Archdeacon of Maidstone characterized in a recent charge—"Piecemeal Disestablishment." Dissenters always sought measure by measure, conferring upon them privilege after privilege, or—if it be regarded as a more justly descriptive word—right after right, as a thing sought for to remedy specified grievances. The great body of Dissenters, as well as Churchmen, *regarded* the passing of a long series of legislative measures in favour of Nonconformists in this light, and no authorized avowal was ever made until very recently, by even such a body as the Liberation Society, that their efforts to obtain such measures were but a part and parcel of their disestablishment scheme. We imagine that search would be made in vain in the pages of Hansard's Parliamentary Reports to show that ever any persons in their place in Parliament did, in the name of the Liberation Society, avow that it was in this sense that measures of relief or right or privilege were sought by Dissenters, or that it was in this sense that Parliament gave its assent to such measures.

As to the various Acts themselves, there is nothing in *their* several preambles to show that such was the sense in

which they were viewed by the Legislature. Quite the contrary. Hansard's Reports would prove that all such measures were sought as measures of relief, and that as measures of relief they secured the support of Churchmen and passed the Legislature. It is quite true that certain sagacious, far-seeing Churchmen, both in and out of Parliament, saw the drift of these measures, and warned both Parliament and the country that the measures sought for by Dissenters as measures of relief really covered secret designs against the existence of the Established Church herself. But such men were regarded as unjustly suspicious, and were in turn ridiculed and denounced as narrow-minded and intolerant bigots, who were behind the age, and who were not deserving of serious attention. Political Dissenters repudiated their imputed motives, Churchmen laughed at warnings of their more sagacious brethren, if they even were moved by them at all, and Parliament turned a deaf ear to them as the outcome of groundless fears; but it appears, according to the boastings of the Liberation Society, that they were right, after all, in the interpretation which they put upon these measures.

Not that such Churchmen would have refused to grant these measures or would have hesitated for a moment to concede every just measure of relief or right or privilege honestly sought for as such. They only hesitated in doing so because they regarded these measures as so many strategic assaults upon the outworks of the Church, made by her irreconcilable opponents, with a view of more easily —when the time for an open attack with all their combined forces came—entering her citadel itself, and accomplishing the work of her complete abolition and spoliation as a national Established Church.

And now that the time is coming for this open attack, we have the opponents of the Church appearing in their true light, and putting the right meaning upon all the statutes which they obtained in the past in their favour, by enumerating them as various stages in the progress of the movement for disestablishment and disendowment.

## 33.

### *Principal Statutes passed in favour of Nonconformists, and Objects for which they were Enacted.*

It will be clearly seen from these Statutes themselves that they were in no way regarded by the Legislature as having any connection whatever with the future question of disestablishment. Moreover, if they had been avowed as sought for with the ultimate view of disestablishment and disendowment, there is every evidence to show that they would never have received the sanction of successive Parliaments.

The Toleration Act, already quoted, was passed in 1689, "for exempting their Majesties' Protestant subjects dissenting from the Church of England from the penalites of certain laws."

The "Repeal of Test and Corporation Acts" (9 Geo. IV. cap. 17), passed in 1828, was "for repealing so much of several Acts as impose the necessity of receiving the sacrament of the Lord's Supper as a qualification for certain offices and employments."

The Marriage and Registration Acts (6 & 7 William IV. cap. 85, 86) were passed in 1836.

The Penalties and Disabilities Repeal Act (9 & 10 Vict. cap. 59) was passed in 1846.

The Burial Law Amendment Act (15 & 16 Vict. cap. 85), "to amend the law concerning the burial of the dead in the metropolis," was passed in 1852.

The Burial Act Amendment Act (16 & 17 Vict. cap. 134), for extending the provisions of the Metropolitan Burial Act beyond the limits of the metropolis, was passed in 1853.

The Liberty of Worship Act (18 & 19 Vict. cap. 86), "for securing liberty of religious worship. No prosecution to be maintainable for assembling for religious worship in a place of meeting not registered," became law in 1855.

The Cambridge University Act (19 & 20 Vict. cap. 88) was passed in 1856.

The Further Burial Law Amendment Act (20 & 21 Vict. cap. 81) was passed in 1857.

The Act for opening Grammar Schools to Dissenters (23 Vict. cap. 11) was passed in 1860.

The Qualification for Offices Act (29 Vict. cap. 22), "to make it unnecessary to make and subscribe certain declarations as a qualification for office," became law in 1866.

The Religious Disabilities Removal Act (30 & 31 Vict. cap. 75) was passed in 1867.

The Compulsory Church Rates Abolition Act (31 & 32 Vict. cap. 100) was passed in 1868.

The Grammar Schools Act (32 & 33 Vict. cap. 56), for opening the governing bodies of grammar schools to Dissenters, was passed in 1869.

The Act for the Abolition of University Tests (34 Vict. cap. 26), rendering the Universities of Oxford, Cambridge, and Durham accessible to Dissenters, was passed in 1870.

The Burial Acts Amendment Act (43 & 44 Vict. cap. 41), to permit services other than those of the Church of England in parochial churchyards and the consecrated portions of cemeteries, was passed in 1880.

The Act for Further University Reform, admitting to Headships and Fellowships at Oxford and Cambridge persons not in Holy Orders, was passed in 1882.

## 34.

## "The Test of Experience" Argument.

### *America.*

When we are told that the best argument in favour of disestablishment is to be found in the results it has produced wherever it has been fairly tried, and when we are urged with a light heart to assent to the disestablishment and disendowment of the Church of England, encouraged by the alleged good fruits which changes have produced in other countries, we naturally ask, Where is the country in which *there has been* the disestablishment and disendowment of a

Church which was placed in parallel or similar circumstances to those in which the Church of England is placed in this kingdom; and in what country have the disestablishment and disendowment of a Church taken place, involving such an ecclesiastical and national revolution as would necessarily be the result of the disestablishment and disendowment of the Church of England?

We are told to look to America, and to contemplate the results of disestablishment and disendowment in that country.

We readily do so, but at the outset we see at a glance that there is no similarity between the position occupied by religious bodies in that land and the position occupied by the Church of England in this country. Not only are the positions not parallel, but the whole circumstances are utterly dissimilar. America was a new country of vast extent. Its political and religious institutions were founded by Christian colonists carrying with them to that new world different creeds and different ideas with respect to ecclesiastical organization and Christian worship, as representatives of different religious communities. In the face of the facts, therefore, it would have been unfair, and indeed unjust, to have taken any one religious body, and to have established it as the national religious communion in the sense in which the Church of England is established as the National Church of this kingdom; just as, if we were starting now in England in the full noontide of Christianity with so many religious bodies in this country, it would, we admit, be unjust to take the Church of England out of all the others and nationally recognize her as the only National Church of the country.

Consequently, no Church was established and endowed in America in the sense in which the Church of England is established in this kingdom, and therefore it was impossible that in the same sense, or even in any resembling sense, any religious body in that land could be disestablished and disendowed in the sense in which it is proposed to disestablish and disendow the Church of England. In the north, Congregationalism was in a kind of way State established and

State supported, purely as the act of the civil power; while in the south Episcopacy was State established and State supported in a similar manner.

But as State-established and State-supported bodies, they never really took root in the country. With such widely divergent prevalent political and religious opinions on the part of the ever rapidly increasing population, and the perpetual inflowing tide of emigration, it was impossible that it should be so. Hence the withdrawal, in the course of time, of State recognition and State support from the religious bodies which had received them at an early period of the history of the country, became not only expedient but a positive political necessity, and their deprivation of any advantages which they had in the infancy and childhood of America's growth involved no such revolutionary consequences as would of necessity follow on the disestablishment and disendowment of the Church in England.

## 35.

### *Canada and other British Possessions.*

The remarks which we have made with reference to America will apply, even more forcibly if possible, to Canada.

There never was an established and endowed Church in that country in the sense, or anything like the sense, in which the Church is established and endowed in England. The utmost that could be said of the relations between the Church and State in that dominion is, that the Church was more or less a recipient of State aid.

What is called the disestablishment and disendowment of the Episcopal Church there was simply the breaking off of the external relations between the Church and the Government, and the resumption on the part of the Government of grants of land, etc., which were known as the Clergy Reserves, and any other State grants which, up to 1854, the Church had been accustomed to receive from the civil power.

As to the Australian colonies, what is called the disestablishment of religious bodies was simply the stoppage of the annual grant of some £30,000 per annum, which had, up till the year 1850, directly from the coffers of the public revenues of the State, been distributed amongst them. In fact, the abolition of State aid for the support of religion in New South Wales in 1863, in Queensland and Tasmania in 1866, in the West Indies in 1868, in Jamaica and Victoria in 1870, in Honduras and St. Lucia in 1871, in Antigua in 1873, in the Cape of Good Hope in 1875, and in Ceylon in 1881, was simply the stoppage of State grants which had been made for the support of religion directly from the Government revenues, so that neither with respect to the history and position of the Church or other religious bodies in these countries, nor with respect to the money support taken from them, nor with respect to the consequences of the cessation of such support, can we see anything which affords the slightest shade of a resemblance to what would be involved in the proposed disestablishment and disendowment of the Church in this country.

We confidently affirm, therefore, that we gain no experience whatever by their being deprived of State aid, nor from their present state and condition without it, compared with what they were with it, to enable us to form any idea of what would be the consequences to the Church and to England of the proposed disestablishment and disendowment of the Established Church in this country. We must therefore regard the argument said to be derived from the alleged "Test of Experience," as non-relevant to the Church of England and this country, and therefore, for the purposes for which it is produced, no argument at all.

## 36.

### *The Irish Church.*

The only remaining case which we are invited to consider as furnishing the alleged "Test of Experience"

argument in favour of the proposed disestablishment and disendowment of the Church of England is that of the disestablishment and disendowment of the Irish Church. And this is really the only case which can be adduced which has the slightest relevancy or similarity to the proposed disestablishment and disendowment of the Established Church in this country.

But when we come closely to examine it, the basis which the Irish Church affords for the "Test of Experience" argument to encourage us to assent to the disestablishment and disendowment of the Church of England is very slight indeed, and the apparent relevancy and similarity between the cases of the two Churches diminish into dim outline. The history of the two Churches in the two countries for centuries was altogether different.

Established and endowed as they both were, no one could say that for hundreds of years past the Church of Ireland was the Church of the country and of the people in the full sense and to the extent which the Church of England is the National Church of this country. Though we do not for a moment say that the fact of the members of the Church of Ireland being in such a small minority to the population of the country, and the little influence which the Irish Church exercised upon the population justified or excused her disestablishment, still they furnished a political argument to statesmen who were actuated by party motives, if not motives of policy, to attempt her disestablishment, such as could not possibly be furnished by the position which the members of the Church of England occupy to the population of this country, the power which the English Church wields, and the influence which she exercises throughout the kingdom.

This is not the place for us to enumerate the various respects in which the great and growing power and influence of the Church of England are daily being manifested, felt, and by all political and religious parties throughout the land acknowledged and borne witness to. It is enough for us to remark, in view of the proposition for the Church's dis-

establishment and disendowment, that so powerful is the Church of England in this country at the present moment that it is almost beyond political possibility that she could be disestablished and disendowed without the co-operation in the work, or the silent assent to it, of her own members, in the face of whose combined opposition neither could the Church be disestablished nor could any government long retain the reins of power.

But taking the Irish Church as disestablished, we are not disposed to criticize the state of things which of necessity followed in the train of that event, nor are we disposed invidiously to compare or contrast the prevalent state of things in the two Churches. That is not our object here, and this is not the time for it.

All we have to say is, that, given even that the alleged advantages which the Church has in some respects reaped in return for the great losses she has suffered, it is too soon fairly to estimate the full effects of the great change which has taken place in her history so as to help us to form an idea as to the consequences of possible disestablishment and disendowment of the Church of England. The Church of England as an Established Church has lived a life of hundreds of years, and, as the result of that long and chequered life, we know what are her excellences and defects.

But the disestablishment and disendowment of the Irish Church are too recent, her life as a Disestablished Church is too short, we are too near the date of her new condition of existence as such, to form any correct opinion as to the ultimate results of this great ecclesiastical and political revolution upon her constitution, government, ministry, work, and history. We must wait. The lesson is not to be learnt just yet as to the issues of the great change through which she has passed. At least, it is too soon to learn lessons from her of experience to encourage us or to induce us to assent to any proposition for the disestablishment and disendowment of the Church of England.[1]

[1] The Archbishop of Armagh says:—"The disestablishment of the Church of Ireland has been only an evil with no compensating benefit

## 37.

*But the Scheme advanced for the Disestablishment and Disendowment of the Church of England precludes those who advocate it from quoting the case of the Irish Church as an Encouraging Test Case of the Blessings to be derived from Disestablishment.*

If those who propose to disestablish and disendow the Church of England proposed to do so on the same lines and on the same terms as those on which the Church of Ireland was disestablished and disendowed, we could understand their quoting the Church of Ireland in her disestablished state as an encouraging example for the Church of England, though we might not be able to agree with them in their conclusion that it is an example that it would be either advisable or expedient to follow in the case of the Church of England.

But, on the showing of the opponents of the Church of England, the cases are not parallel. The Church of Ireland was only partially disendowed; but it is proposed wholly to disendow the Church of England, so far as her possession of property is concerned, up till 1818.

Then, the very Act which disestablished and disendowed the Church of Ireland recognized her new existence in the

whatever. It has been of no advantage, socially or religiously, and, instead of conferring strength, has caused weakness. Long may our Heavenly Father in His mercy avert so great an evil from the glorious Church of England. I have been twenty-nine years a rector and thirty years a bishop and archbishop, and I hesitate not to say that I regard disestablishment as a most disastrous failure."

"At the Irish Church General Synod in Dublin, on April 16, the report of the Representative Church Body stated that the receipts on 'Assessment Account for Stipends' had fallen from £120,669 in 1883 to £114,204 in 1884. The number of clergymen provided for by annuities under the Disestablishment Act was rapidly diminishing, and the supply of men to fill their places was probably the greatest difficulty to be encountered in the near future. It was necessary that immediate steps should be taken in every diocese to raise funds for the augmentation of small incomes."—*National Church*, May, 1885.

form of a legally constituted corporate ecclesiastical body. But the scheme for the disestablishment of the Church of England put forward by the most active organized opponents of the English Church, is that she should not only be disestablished and disendowed, but that in the Act of Parliament effecting this great revolution there should be no recognition whatever of her future existence, and no compensation made to her as an ecclesiastical body; but that, disestablished from her ancient historical position as the National Church, despoiled as a Church body of all her property, with her whole legal ecclesiastical constitution and government dissolved by Act of Parliament, she should be left, without authoritative head or representative body—so far as the State inflicting the injuries upon her is concerned—to disintegrate into fragments, without any legislative basis whatsoever for her future reconstitution.

We have said, we think, enough to show that the opponents of the Church are not entitled to refer to the circumstances of the Irish Church as furnishing a persuasive argument to induce Churchmen to assent to the disestablishment and disendowment of their mother Church of England as proposed by the Liberation Society.

## 38.

*The "Test of Experience" Argument with reference to Ireland will not help us, considering the State of Things in that Country which has followed the Revolution of Disestablishment and Disendowment.*

We do not, of course, affirm that the very considerable complicated social and national forms of lawlessness which have prevailed in Ireland, drawing after them all those terrible evils which usually follow in their train, are the result of disestablishment, or that they are its direct outcome. But the coincidence of the fact of their following so closely, and in such an aggravated form, on the occurrence of an event which was a wresting of property consecrated to the

service of God from its religious uses, and devoting it to secular objects, is a coincidence of a character certainly, to say the least, not calculated to inspire Englishmen with confidence, or even with encouragement, to undertake the work of sacrilegiously spoliating the Church of England.

## PART IX.

## *Proposed Disestablishment: its Legal and General Results.*

### I.

### *Disestablishment without Disendowment.*

We are aware that there are Churchmen who, in speaking of disestablishment, understand by that word only what is called a severing of the relations between the Church and the State. In this sense many of them may possibly not only not dread it, but desire it. However this may be, let it be clearly understood that neither the Liberation Society nor any of its non-religionist adherents understand disestablishment in this sense. Such disestablishment, they have given us to understand, they would not have at any price, but would oppose it to the utmost. What they mean by disestablishment, it is necessary here to state, is disestablishment that will carry with it complete and thorough disendowment. In prospect of the coming contest, therefore, it is for us to deal with the idea of disestablishment, not as some Churchmen might wish it, and not in some modified form in which it may ultimately take place, but we must consider it as the opponents of the Church have propounded it, and formulated their scheme in their manifesto published to the electors in the different constituencies. There is no other scheme for disestablishment before the country than that which has been submitted to the constituencies by the Liberation Society, and for the support of

which they invite the electors to vote. That scheme involves not only the disestablishment and entire disendowment of the Church, with the loss of her parish churches and cathedrals, but her complete legal dissolution as an ecclesiastical body, with a parliamentary provision in the Act of Disestablishment that neither by an Act of Parliament nor by a charter shall the new disestablished Church body have any recognition in the future.

That is what is meant by disestablishment. That is the idea of disestablishment with which Churchmen have to deal, and which it can scarcely be doubted it is their duty to oppose with their utmost resources and strength.

## 2.

### *What Disestablishment, as proposed by the Liberation Society, would involve.*

The following are the summarized proposals set forth in the Liberation Society's scheme for Disestablishment:—

1. Fixing of some date, on or after which the Church "shall cease to be established by law, and new appointments to office prohibited."
2. Dissolution of every ecclesiastical corporation, sole or aggregate.
3. Abolition of ecclesiastical courts and law.
4. Exclusion of spiritual peers from the House of Lords.
5. Granting of no faculty or charter which would re-create a privileged ecclesiastical body (as in the Irish case), but simply leaving Episcopalians to organize themselves in whatever way may seem to them best for the management of their affairs.
6. Personal compensation of bishops, clergy, patrons, and other individuals who have a special beneficiary interest in the Establishment, but not to any officials or others dispensing *public* patronage.
7. Release of all such individuals from further obligations, and (this being taken into account) a varying scale of annuities for each—for instance, to aged incumbents their present nett income for life; to those of thirty-five or younger age, one half their income; to those older than thirty-five, a proportionately larger amount; to curates, gratuities in cases where deemed entitled.
8. To facilitate commutation of annuities—the issue of bonds for their payment, such bonds being legalized for sale or transfer. These the clergy would be free to hand over to any Church if they so chose.

9. The *grant of borrowing powers to a commission*, charged with the duty of disendowment.

10. Cathedrals, abbeys, and other national monuments, to be under the control of the Board of Works, and maintained for such uses as Parliament might determine.

11. Retention for public purposes (or *for disposal*) *of the episcopal palaces, and of buildings appended to cathedrals.*

12. The educational endowments and charities of cathedrals to be separately dealt with for the national benefit.

13. *All burial grounds of the churches to be transferred to burial boards, for the continued use with equal rights of all parishioners.*

14. *Proprietary churches to be at the disposal of the present proprietors.*

15. All churches existing at the date of the passing of the first of the Church Building Acts [1818] should be deemed to be ancient parish churches.

16. Ancient churches should be vested in a parochial board, elected by the ratepayers—which board should have power to *deal with them for the benefit of the parishioners. The power of sale, under proper regulations, should also be given.*

17. Churches erected after 1818, and built at the sole expense of any person who may be living, should, on his application, be vested in him, or as he may appoint.

18. Churches (other than parochial churches rebuilt) erected after 1818, by voluntary subscriptions exclusively, and also churches not claimed, should become *the property of their congregations in trust.* If, within a given time, such churches be not accepted, they should vest in the parochial boards.

19. Churches built after 1818, and erected partly by subscriptions and partly from parliamentary grants and public sources, should be offered to the congregations; *but the amount from public sources should be a charge upon the building, to be paid in accordance with regulations.*

20. If an endowment—including parsonage or not—has been created by a private individual, and he be living, the commissioners should, on his application, vest the same in him, or as he may appoint. Any parsonage so reconveyed should be subject to the provision hereafter stated in Section 24.

21. Where endowments have been created by voluntary subscriptions exclusively since 1818, they should become the property of the congregations, and be held for their use. Endowments not reconveyed should become the property of the congregations.

22. Where endowments have been created partly by subscriptions and partly *from national sources*, the amount of the latter should be deducted, and form part of the surplus.

23. The endowments dealt with under Sections 20, 21, and 22, should be charged with the annuities paid as compensation to the clergymen.

24. As the annual value of the parsonages and glebes would be included in the estimate of incomes of the clergy, the pecuniary interest of the clergy in them would cease, and this property could be dealt with by the commissioners, in the same way as other surplus property. Existing incumbents, however, to be allowed to occupy their parsonages so long as they continue ministers of the churches in which they now officiate, on payment of rent, according to the valuation adopted in settling their compensation. Whether an incumbent should continue minister of the church in which he was officiating would depend on the congregation, acting as such, or in connection with any religious organization with which it might connect itself.

25. *Provision for the sale of tithe-rent charge to the owners of land on the payment of 22½ years' purchase.*

26. The power of levying church-rates, in any form, to cease; provision being made for extinguishing debts, or meeting other claims, for which compulsory rates may now be levied. Easter dues and other ecclesiastical impositions, which are either small in amount, or vexatious in character, to be abolished. Special arrangements would also be required to relieve the inhabitants of Liverpool, Marylebone, and other places, which have to pay large sums out of municipal or parochial rates to maintain churches and clergy.

27. There may be no considerable surplus available for years to come. When that surplus becomes a reality, the nation will decide on its appropriation with reference to the wants and feelings of the period. The surplus may be devoted to education, to the maintenance of the poor, to effecting great sanitary improvements, to the reduction of the national debt, or to other objects beneficial to the whole nation. Inasmuch, however, as a large portion of the property now devoted to ecclesiastical purposes belongs to the parishes, much should be applied to local objects, and be administered by municipal and local authorities.

28. The succession to the Crown, under the Act of Settlement, the laws relating to Sunday observance, the appointment of army and gaol chaplains, etc., need not be imported into the discussion.—*Financial Reform Almanack*, 1885.

## 3.

## *Some Legal Results of Proposed Disestablishment.*

Liberationists are always dangling before the eyes of Churchmen as things greatly to be desired, and for which, if need be, the highest price should be paid and the greatest sacrifices submitted to, what they are pleased to call—it would almost seem ironically—the advantages of disestablishment. Now, what are these alleged advantages? Let us

examine them on the basis of the proposals in the preceding section.

The "dissolution of every ecclesiastical corporation, sole or aggregate."

This, expressed in the very words of the Radical programme, would be the first alleged advantage of disestablishment and disendowment.

Let us see what this dissolution means, and what is included in it, and we shall be the better able to estimate the value of these alleged advantages said to be consequent on disestablishment and disendowment, with the glowing descriptions of the characteristics of which Liberationists try to dazzle the eyes of Churchmen.

It means the absolute disintegration and dissolution of the whole Church as a religious body, as she now exists as the continuous Church of history and the Church of the nation in this kingdom.

It means the complete breaking up, disorganization, and dispersion of the whole Church body by virtue of an Act of Parliament, so that in future there shall be no such institution as "The Church of England," or "The English Church," or the "National Church" recognized by or known to the law.

It means the legal absolving from every obligation, and the parliamentary releasing from the performance of every official, ecclesiastical, and religious duty of every bishop and clergyman of the Church, together with the setting free of every lay and clerical official now holding office or having duties to perform on and after the date of disestablishment.

It means the dissolution by virtue of an Act of Parliament of every legal tie and bond of union now existing between members, bishops, and clergy of the Church of England as the Established Church of the country; and it means an entire destruction of the ancient, historical, ecclesiastical, and religious basis on which they had been previously united, with parliamentary and legal barriers, rendering the reconstitution of such a basis of union impossible in the future.

In fact, the Act of Disestablishment, once passed, would

utterly uproot and destroy an ecclesiastical institution which has been the result of the gradual growth of a period of some hundreds of years, and even Churchmen, we fear, do not, as a rule, clearly comprehend not only the sweeping revolutionary changes, but complete ecclesiastical destruction which would be involved in the realization of the Liberation Society's proposal of disestablishment.

When they come clearly and fully to realize what is exactly meant by the proposal of disestablishment, and the overwhelming ecclesiastical and religious catastrophe which it would bring about, it is not too much to expect that if they care for preserving the time-honoured institution and ancient organization of their Church, with a history so grand, and a career on the whole so noble and illustrious, and if they care for the best interests of their country, which the Church at all times has been forward in promoting, they will say as Churchmen, as citizens and electors, with a determination that cannot be mistaken by their opponents, and with a resolution which statesmen, and especially the Government in power, will not fail to understand—"This shall not be."

On the morrow of disestablishment, as proposed by the Liberationists, in every diocese, would cease all legally binding relationship between the bishop and the clergy over whom he presides. In every parish there would be brought to an end all relationships of obligation between the clergy and their parishioners. There would still be bishops and clergy legally and ecclesiastically unattached, receiving pensions for life, but absolved from all office and the performance of all duties. Bishops without dioceses, and clergy without parishes!

4.

*How would the Disestablished Church become Reorganized?*

Would order arise out of the confusion?

*It* might be so after years of labour and sacrifice, and *long* and weary attempts to reorganize a dislocated and

abrogated body, but with existing strongly pronounced and prominently developed theological, sacramental, and ritualistic differences of opinion, how strong would be the temptation, under the influence of intolerant party spirit, to take advantage of the occasion and form separate communities?

There would be no longer the old historical traditions, associations, and ties binding diverging schools of thought together.

Assuming as an indisputable fact that spiritually the same Church, with her laity, bishops, and clergy, would remain untouched by an Act, still the old form and face of the old Church of England as she has ever been known to the people, as the Established Church of the country, would be not only changed and completely gone, but could be brought back no more.

Even to re-form and re-organize the Church in any shape, there would have to be something like an ecclesiastical plebiscite of both the laity and clergy, for it must be borne in mind that the Act of Disestablishment would have dissociated and independently individualized every one of them.

The Church, under the new circumstances brought about by the Act of Parliament which effected disestablishment, could only be reconstituted on the basis of an elective adhesion to the new community by the voice or vote of every bishop, clergyman, and layman choosing to ally himself with her.

What a premium in these days of impatience of the restraint of ecclesiastical authority for the emphasizing of existing differences of opinion, the assertion of individual right and preference, the development of the spirit of schism and possible, if not probable, sectional separations!

Looking at the subject in the light of these considerations alone, we are persuaded that no Churchman who gives these things his serious attention can view the possibility of disestablishment *with* a light heart.

*But it may be* said this state of ecclesiastical confusion

did not prevail in the Irish Church after her disestablishment. Quite true. The case of the disestablishment of the Irish Church, however, and the terms and conditions on which she was disestablished, were widely different from the scheme proposed for the disestablishment of the English Church. This we shall see in the comparison which we shall institute between the two schemes.

## 5.

*Proposed Disestablishment of the English Church differs altogether in its Nature and Results from Disestablishment in the Irish Church.*

It is a subject worthy of note that the very Act, the 32 & 33 Vict. cap. 42, 1869, by virtue of which the Church of Ireland was disestablished, contained a provision in its twenty-second section, authorizing her Majesty to incorporate by charter a new Church body appointed by the members of the Church to represent her and to hold property on her behalf, thus virtually re-establishing the Church so far as this could be done by parliamentary recognition of the new Church body. Had it not been for this provision, granting this charter so to incorporate a new Church body, the future of the Disestablished Church in Ireland might have been very different. But here was something definitely fixed and settled at once. Here was a nucleus of authority and organization around which all new arrangements might order themselves, and in which they would find a centre of cohesive stability. Here was a body for the State Commissioners in dealing with Church property to negotiate with, and with whom the beneficed and unbeneficed clergy receiving compensation from the State for their vested interests could enter into arrangements with respect to their future relationship with the Disestablished Church, and their amounts of compensation as well as their commutation of these amounts with a view of forming a common fund, etc. But the proposal for the disestablishment of the English

Church put forth by the Liberation Society, expresses a determination that the Act of Disestablishment shall not create nor recognize in any way any new Church body in the Disestablished Church.

## 6.

### *Differences as to Constitution of a New Church Body.*

The Liberation Society, in its "Practical Suggestions," opposes the granting of any faculty or charter by virtue of which a new Church body in the Disestablished Church would be recreated or instituted, and it contemplates leaving after disestablishment the whole body of Churchmen, clergy, and laity, as so many separate units without any legal basis on which to re-form or re-organize themselves, or any legally authorized centre around which they might rally and reconstitute themselves on a foundation recognized by law.

The object of all this is patent. It is not only to put an end to her existence as the Established Church, but it is to render her reconstruction in the new state of things, in anything like her old characteristics of constitution and government, almost an impossibility. The object is by the complete destruction of her ancient ecclesiastical foundation, and by the refusal of Parliament to recognize her existence in any new form, to put a premium upon individualism and sectionalism, and to disintegrate and abrogate her altogether. The new creation of a legal Church body of the Irish Church was not only a recognition of the existence of the Disestablished Church under a disestablished and partially disendowed dispensation, but it provided a legal body at hand to receive and hold property on behalf of the Church.

One of the first advantages of such a body was seen in the fact that it was a recognized ecclesiastical authority, with which the State Commissioners could deal in monetary matters, and questions of property affecting the Disestablished Church.

*And to this* central Church body, in accordance with the

twenty-ninth section of the Act, the Commissioners for carrying out its provisions paid the sum of half a million sterling as compensation for the loss of private endowments.

But the Liberation Society's proposal is not only to oppose the recognition of any new Church body as representing the Church of England in the event of disestablishment, but to give the Church, as a body, no compensation whatsoever.

The Liberation Society's scheme contemplates dealing only in the matter of compensation with individual life-interests, ignoring the idea of any compensation being due to the clergy or the members of the Church in their corporate capacity.

## 7.

### *Differences as to Terms of Compensation.*

Even with respect to compensation for life interests, the proposal for the disestablishment and disendowment of the English Church differs greatly from the plan pursued in the case of the Irish Church.

Compensation was given to the Irish clergy with an inducement to continue their ministry in connection with the Disestablished Church.

It is proposed that, in the event of the Church of England being disestablished, the method shall be reversed, and that life pensions shall be given or capital sums paid to the clergy and to the holders of all ecclesiastical offices in her communion, on the condition that they shall be released from all obligations to discharge their present duties, and that they shall be dealt with as those "whose services are no longer required."

Thus, in the case of the Irish Church, the Act of Disestablishment was so far favourable to her reconstitution that it provided for the continuance of her organization and ministry.

In the proposal to disestablish the Church of England, there is definite purpose and aim, as far as an Act of Parlia-

ment can go, to abolish her organization, and put an end to her organized ministry. The reason assigned for this by the Liberation Society can only be considered in the light of a grim satire, namely, to relieve from "the embarrassments which must be occasioned by compulsory connection with a new system, men habituated to one which has been abolished."

In consideration of this generous proposal, it is suggested that the compensation given to the English disestablished clergy shall be fixed at a lower rate, seeing that they will be at liberty to enter into "other engagements, and will be free to contract any obligations in connection with an episcopal *or any other Church* organized by voluntary arrangements."

Further, in the twenty-third section of the Irish Church Disestablishment Act, it was provided that the commutation of clerical annuities should be a transaction between the Church body and the clergy, and an inducement to general compensation was offered in the form of a bonus of twelve per cent. on the commutation money, if three-fourths of the whole number of the clergy of any diocese commuted.

But in the Liberation Society's proposal to disestablish the English Church no such inducement is held out, and no such an arrangement would, according to the Liberation Society's plan, not only not be recognized, but opposed by the terms of disestablishment.

8.

*Differences as to Buildings.*

Then as to buildings.

In the case of the Irish Church, churches, parsonages, and glebes were, under conditions, transferred to her as disestablished.

Whereas the proposal is, in the case of the English Church, to take from her by one fell sweep her cathedrals, churches, parsonages, glebes, etc., altogether, with the exception of churches erected under certain conditions since 1818.

But not one of even these is to be left to her as a Church body. They are all to be vested in individual congregations entirely apart from and independent of the Church as a body, or to be restored to their personal or collective founders or their heirs or successors.

Here again the aim and animus of the proposal for disestablishment are painfully evident as not satisfied merely with the dissolution of the union between Church and State, nor with her partial disendowment; it seeks not only to deprive her of every shred of property in endowments, but aims at uprooting and destroying the whole framework of her present organization while it seeks to make her disestablished reorganization a matter next to an impossibility. It proposes to take from the people of England their religious endowments, alienate their cathedrals and churches to secular uses, and to close them for ever against the public services of the Church of England, to which the people in every parish have been accustomed, to take from them the ministrations of their national clergy, and to deprive them of their clergy altogether. These are the aims of the proposed scheme of Disestablishment of the English Church.

## 9.

### *Disestablishment would commit the Country to one of the Greatest Breaches of Trust.*

It would be impossible to imagine a more serious breach of trust than that which would be committed by the Legislature in the name of the country in the event of its passing an Act for the Disestablishment and Disendowment of the Church. Ancient and modern endowments have been given for ecclesiastical purposes, the ancient church fabrics have been rebuilt and restored at a cost of close upon fifty millions, thousands of new churches and parsonages have been built, and Churchmen on all hands have given liberally out of their poverty and abundance to promote the work of Church extension and Church endowment, in the solemn

faith that the objects of their liberality would be respected, and that the Church of England would remain the Established Church of the country, retaining her churches and endowments inviolate. Take, then, away the churches and endowments of the Church, and there is not only a grossly flagrant breach of faith, but there is a national breach of trust with respect to those liberal gifts of Churchmen in churches and endowments, which were given and reconsecrated to God and His Church for ever, and which were so described and set forth as being thus sacredly appropriated and devoted in the most solemn legal documents. Some people may be misled by certain provisions in the proposed disestablishment scheme of the Liberation Society, which would not confiscate to the ratepayers nor to the nation certain buildings erected and endowments provided from private sources since 1818. But the fact is that these would be as much lost to the Church, as a future body, as would her ancient fabrics, the saving clauses in reference to them being not in favour of the Church, but of their individual founders, endowers, and subscribers, or their individual heirs and successors. So far from it being the intention of the Liberation Society that any church or endowment built or created since 1818 should pass, under the proposed Act of Disestablishment, to any new Disestablished Church body, a part of their scheme is that no such new body at all should be created or recognized by the provisions of the proposed scheme for disestablishment, nor by any subsequent charter.

## 10.

### *Disestablishment would rob the Labouring Classes and Poor of their Religious Inheritance.*

The churches and the ecclesiastical parishes of the land, with their endowments, are pre-eminently the religious inheritance of the working classes and of the poor. By means of these are secured to them opportunities of publicly *worshipping* God, spiritual, religious, and moral supervision,

and all the blessings of the gospel through the ministry of the Established Church. These are the accumulated voluntary but legally secured provisions which their forefathers made for their religious benefit in successive centuries of the history of the Church and nation. The working classes and the poor have had the enjoyment of these amidst all the eventful changes through which the kingdom and the nation have passed. Whatever revolutions have taken place in the country, these have remained as their great spiritual inheritance. Never, until within the last half-century, has there been a serious proposition to despoil them of these inestimable spiritual rights and privileges secured to them in their National Church. But now, at a time when the population is increasing upon every hand, and when, after all efforts are put forth both by the Church and by religious bodies outside her communion to evangelize the dense masses of the people who are confessedly living in practical heathenism, when thousands of the people in all our cities and large towns may be said to be unreached by the tidings of the gospel, and when the cry on all hands is for more churches, more pastors, and more missionaries, the extraordinary and unparalleled proposal is made to abolish the National Church altogether, to confiscate and alienate her endowments to secular uses, and to close the parish churches of the land against the public religious services of the Established Church.

Wherein is the reasonableness of such a proposition? Wherein is the justice? Wherein is the patriotism? And wherein is the religious motive or character of such a proposal? We know the answer will be given that the working classes and the poor ought to be provided for by the voluntary efforts of the various Christian bodies. But we maintain that they have been thus provided for by voluntary efforts of the past, the results of which, and the religious provisions thereby made for them, it is now proposed to take away from them by an Act of Parliament. Common sense must tell every thinking man that current voluntary *effort of itself* would be totally inadequate, in case of dis*establishment*, to sustain the numerous institutions which

would be dependent upon its support. The Church and religious bodies, as well as all charitable and benevolent institutions, are even now crying out for funds to meet the demands made upon them and to enable them to carry on the good works which they have already undertaken; and yet at such a time as this it is proposed to abolish the National Church of the country, and to devote her religious endowments to secular uses, trusting to Christian charity to provide the blessings of the gospel for the poor, or leaving to the poorest of the poor to provide the means of grace for themselves; that is to say, the proposal is to deprive the working classes and the poor of this country of their present legal rights, their vested interests in Church property, and their historical religious inheritance in their National Church, with the proclaimed object of throwing them upon the fitful and already overtaxed voluntary liberality of the Christian public, with the hope that it would in some measure supply spasmodic substitutes for those now legally enjoyed priceless privileges of which the Act of Disestablishment would deprive them. We can scarcely think, when the working classes and the poor come clearly to comprehend the nature and extent of these proposed sweeping revolutionary confiscations—if Churchmen will only put these things before them—and to see how permanently such proposals would wrongfully and injuriously affect themselves by inflicting upon them most serious permanent injuries, that the promoters of such wholesale revolutionary schemes will obtain the support which they reckon upon from the two millions of new voters on whom they propose morally and spiritually to inflict this damaging wrong.

## II.

### *What Disestablishment would mean to Country Parishes.*

To disestablish the Church would be to deprive every ancient country parish in the land of its resident parochial *minister; to alienate* and apply to other purposes its sacred

it? What would be its effect upon them? We are not referring to the intelligent agricultural labourer, or to the comparatively well-educated artisan. We are referring to those dense masses of the people that are without education and without intelligence. How would they regard disestablishment? Why, simply as the act of the State disestablishing religion altogether. They could not be expected to distinguish between religion and the Church, for the Church has always been to them the synonym of religion. What a blow would this be to any religious tendency which they might have, and how difficult would evangelistic access to them be rendered afterwards! They could meet every effort made to reach them by the plausible plea, "Oh, the State has by Act of Parliament done away with religion altogether, and therefore it cannot be of any importance."

## 15.

### *Disestablishment would destroy a Great Moral Force.*

Then what a loss would England feel in being deprived of even the restraining influence from evil which the Church at present exercises upon all classes of society! Who can tell how much the morality of the population is indebted to the presence of the Church, with her influence, everywhere in its midst? Low as the standard of morality may be, who can tell how much lower it might become were the restraining influences of the Church as moral barriers taken out of the way? Look at the subject from every possible standpoint and in every imaginable light, and nothing but the most disastrous consequences to religion, morality, and to the social and political life of England, could follow upon the disestablishment of the English Church.

It then becomes an urgent question for all Churchmen *at this* crisis of the country to prefer their Church before *their* political party, to prefer her far-reaching interests to *the mere* passing interests of any political question or

exigency, and to see that every candidate to whom they promise their vote shall in return pledge his word to them that he will not support or vote for Disestablishment?

## 16.

### *Disestablishment would bring Disgrace and Danger to the State.*

By disestablishment the nation as a State would separate itself for ever from an intimate union with a religious institution, an institution which, in spite of all its imperfections and mistakes, has been its guardian and educator, and which has shed historic lustre and glory upon England's name throughout the nations of the world. For England to disestablish her Church would be for the State to spurn from its side the watchful guardian of its infancy, the keeper of its conscience, the friend of its youth, and the confidential companion of its chequered life of prosperity and adversity, joy and sorrow, feebleness and strength. By the disestablishment of the Church the nation would destroy, in a single hour, a relationship between the Church and State which has been the gradual growth of centuries, such as exists between no Church and State throughout the world, and in that act of legislative destruction the nation would recklessly fling away a priceless inheritance of accumulated experience, wisdom, and manifold religious organizations, ministrations of the Gospel, and means of grace, such as when once lost could never be restored to the spiritually destitute among all classes of the people.

## 17.

### *The Sheer Folly of Disestablishment.*

And the sheer folly of such a proposed proceeding as this *may* be seen even from a Nonconformist-Liberationist's point of view, for at the very moment when the

political Nonconformists are crying out for the alienation of all the ancient endowments to secular purposes, and the destruction of the religious organization of the Established Church, they themselves are lifting up their voices bewailing the need of increased religious agencies amongst the heathen masses of our cities and towns who know not the gospel; and lately, by their own carefully inquired into statistics, the most heartrending facts are brought to light by their own agencies, showing that their congregations are practically starving their ministers on stipends of from £50 to £100 a year. If any one doubts this, and wishes to inquire further into it, let him read the sad and startling disclosures illustrative of these facts contained in the *Christian Commonwealth*, a Nonconformist paper, for December 25, 1884, and January 8, 1885. He will there read sorrowful confessions from ministers themselves, collected by a special inquiry, of a character that will convince him of the reckless folly of taking away all religious endowments of the past to rely solely upon the fitful and inadequate capricious contributions of those who either will not or cannot contribute to provide the ministrations of the gospel for themselves, much less by their liberality to provide them for others.

## 18.

### *Would the Disestablished Church have more Freedom?*

Given that the Church were disestablished and disendowed on the lines proposed by the Liberation Society, what would be her position with respect to her new freedom? It would be this. With her union with the State dissolved, her present ecclesiastical organization broken up by Act of Parliament, her laity and clergy separated into units, her cathedrals and churches, with her endowments, taken away from her, she would indeed at a fearful cost possess freedom —the freedom of disorganization, the freedom of absolute poverty, the freedom of not having a cathedral or ancient

sanctuary to call her own, in which her congregations might meet to worship God.

And what would that freedom in her future amount to, obtained, as it would be, at such a tremendous cost to herself and to the religious interests of the present and future population of England? Would it be freedom from the control of the State law courts to interpret her creeds and to adjudicate upon her acts of discipline in case any of her ministers and members, supposing themselves aggrieved, appealed to such courts for redress?

Would it be freedom from the control of Parliament in the event of her requiring any of her legal settlements which she might make as to her new constitution, government, etc., altered, in case she required such alteration in them to adapt them to the changed circumstances of future times?

We shall see. Her first act of freedom would be her attempt to reunite her disintegrated laity and clergy together in one communion, who would no doubt aim at making her as near as possible, in her episcopal and spiritually ecclesiastical constitution, to what she now is. Her further act would be to readopt her creeds and liturgy, etc., and to prescribe, in the new state of things, her ritual. The settlement of all these points, while they might develop much difference of opinion and give rise to prolonged discussion, would no doubt result in her adopting her Book of Common Prayer very much, if not altogether, as it now is. The next act of her exercise of her freedom would be to embody these in a legal instrument, call it trust-deed or what you will. But to embody these matters in a legal instrument would be necessary to ensure permanency and order in her corporate life. Now the extent of her State-uncontrolled freedom in the future over all these matters would be definitely determined by the amount of freedom that she would reserve for herself—that is to say, to the extent that she did *not* bind herself by what she did *not* insert in her trust-deed; but then her legal insecurity would be proportionately greater. With respect to everything which she inscribed in her trust-deed as binding upon herself in the

future as to her constitution, government, faith, and worship, *so far her freedom from State control would be gone for ever*, quite as much, so far as these matters extended, as if she had still remained the Established Church, in union with the State.

Men are free, religious bodies are free, and all institutions are free in deciding what they shall put in their trust-deeds. But once that act of freedom of specifying details in a trust-deed is exercised, the freedom with respect to these details is gone for ever, the instrument of the trust-deed henceforth is under the absolute control of the State law courts for interpretation, and subject to the will of Parliament for alteration.

This, then, would be the extent of her freedom. We are aware that some Churchmen have a hankering after some indefinite kind of imaginary boundless freedom, which they fancy that the Church would suddenly become possessed of in the event of disestablishment. But they cannot, as practical men, have fully inquired into the matter, and have thought it out seriously to its logical results. There can be no legal bond of union, no legally binding form of faith, nor legally authorized form of worship and no security of the possession of property unless there be a setting forth of these obligations on those concerned in a legal instrument. The price paid for this security is, that once these matters are set forth in a legal instrument, the State will, when called upon, interpret and enforce the contents of the instrument as its judge understands them upon all concerned, and the State will allow no deviation from it.

The new Church body, if the Liberation Society's programme were carried out, would be so far in the exact position in relation to the State as the smallest sect in the country, with this disadvantage to her, that while they are organized and established, she would have to begin afresh—without churches and without endowments—to resettle and re-establish herself. Is this a freedom to obtain which Churchmen who understand the question will recklessly, by *active efforts* in helping forward the movement for disestab-

lishment, fling their precious heritage of an Established Church away, or by passive indifference allow disestablishment to come to pass?

Let any one say wherein this freedom could be advantageously compared with the freedom which the Church of England now possesses. Let any one, with the full facts before him, sit down quietly and with his pen try to enumerate wherein such freedom would be superior to the freedom which the Church now enjoys. Let him reckon up the gain and the loss of disestablishment, and we think he will rise from the attempt resolved that as a Churchman and as a citizen he will do all in his power to maintain the Church in her present position, and to preserve to the people of England their Established Church, while using his utmost efforts to regain for her some of her lapsed liberties.

## 19.

### *Would the Disestablished Church attract to her Ministry a more Proportional Representation of all Social Classes?*

Would a disestablished and disendowed Church attract a more socially representative, better qualified, and, on the whole, a more self-denying and devoted class of men to its ministry?

This is a serious question, worthy of no small place in considering the results of disestablishment and disendowment. So far as the ministry of the Church at the present is concerned, it is perhaps more than the ministry of any other Church or religious body in Christendom proportionately representative of all families and all the social classes in the kingdom. So much, we take it for granted, will be admitted by all who know anything of the constitution of the ministry of the English Church, so that we need not waste space and time in entering into proof of this statement. Would this be more so or would it be less the case were the Church disestablished? Undoubtedly it would be less

so. There are human considerations that weigh with the most pious parents in the early training of their children for their future calling, even in their desire to set them apart to the ministry. Amongst these it would be want of candour to say that social position, non-dependence upon the capricious opinions and changing choice of their congregations for their appointments, and for whatever income may fall to their lot, are, for the most part, characteristics of the ministry of the Church of England which not only weigh very greatly with parents who are members of the Church, but even with many dissenting parents in the devotion of their sons to the ministry. Add to these the historical associations which gather round the Established Church of England, the prestige of her ministry, the wider field for influence and usefulness that she offers to those who would consecrate themselves to ministerial work, and the almost limitless practical liberty which she affords to earnest men in carrying on Church and parochial work, and you have attractive features about her ministry, with all its drawbacks, its slow promotions, its, in most cases, poor pecuniary compensation even when promotion comes, such as cannot be offered by any other ministry in the world.

But disestablish and disendow the Church, and you, to a great extent, do away with these, and so far you lessen the attractions of parents to devote their children to the ministry. We know it may be said that these considerations ought not to weigh with parents. Our reply is, that as a fact these considerations do weigh with parents, and will weigh with them, and this fact cannot be altered.

Parents would probably reply, "We do not wish our children to serve God the less, but, so far as our wish is concerned, they shall serve Him as laymen rather than that they should give up their whole life in being ministers under a system beneath which, for position and maintenance, and even for their method of work, they would be subject to the caprices of congregations."

But, to put all mere opinion aside in considering such a question, this is precisely how parents do act in Dissenting

bodies, according to the facts which are patent amongst them. Where, in the lists of the ministries of the Wesleyan, Congregational, and Baptist bodies, are the names of the sons of the wealthy merchants in those communities who give their thousands? They are not to be found![1]

## 20.

### *Would the Disestablishment of the Church be productive of greater Liberality?*

Would the disestablishment and disendowment of the Church be productive of a greater outflow of liberality on the part of Churchmen? Why should it? we ask. Is it the way to encourage and incite Churchmen to the exercise of greater liberality in the future openly to rob them of their endowments, which are the result of their forefathers' liberality in the past, and to deprive them of the use of their ancient parish churches, cathedrals, etc., built by the liberality of their fathers, and repaired and restored by modern Churchmen at a cost of nearly £50,000,000? Is it the way to inspire Churchmen with the spirit of greater liberality, wrongfully, by virtue of an Act of Parliament, to take away from their Church all that she possesses, and to reduce her to the poverty of possessing nothing, leaving it to her members, despoiled of their religious inheritance, to contribute towards her support, and to re-endow her as best they can?

No; rather let her members arouse themselves in time to the immense importance of the threatened wrong of spoliation, and resolve that they will contend to the last for their Church's rightful retention of her property and fabrics, and that their liberality in the future shall not be a substitute for ancient and modern endowments, but supplemental to them.

[1] See "The Dead Hand in the Free Churches of Dissent," p. 116; also "Congregational Year-Book," 1876, pp. 132, 133.

21.

*Would not the Disestablishment of the Church tend to foster in her Clergy and Laity a more distinctive Ecclesiastical Spirit?*

It would. The disestablishment of the Church would undoubtedly tend to develop and foster in her ministers and members more of the pronounced and severe ecclesiastical spirit.

The Disestablished Church, once reconstituted and reorganized, and in all respects withdrawn from her former relations with the State, could hardly help becoming more and more emphatically and permanently a distinct and definite ecclesiastical body. There are, no doubt, some respects in which this would be a religious advantage, and therefore desirable, but it will be admitted that there are other respects in which it might to as great an extent be to the Church's disadvantage and loss, and therefore undesirable.

The fact of the present relation of the Church with the State—of her being what is called Established, and therefore known in reality as the National Church of the people, gives to the Church a breadth of opinion and width of sympathy which could not be acquired by any unestablished body. These features in the Church may not in all respects be acceptable to the strictly severe ecclesiastical spirit which may characterize some of her clergy and laity, but they are undoubtedly features which gain for the Church acceptance with the people, which attract men to her fold, which give her access to all classes, and which endear her to the minds of many.

22.

*Would the Disestablishment of the Church give her a Deeper Interest in the Welfare of all Classes of Society?*

If the Church were disestablished and disendowed, *would* such a change in her condition tend to develop in

her clergy and laity a wider and deeper interest in the welfare of all classes of the community who require their help?

It is the case, and perhaps will ever be so, that in every State there are classes of its subjects who require help in times of poverty and sickness such as no State can administer. Relief to such, if it comes to them at all, must reach them from voluntary sources and voluntary agencies. Those sources and agencies have been, for long years past, supplied by the Church. It is impossible to estimate the extent of the timely help which the Church, by the liberality of her clergy and laity through their voluntary organizations, has given to the working classes, the poor, the sick, the friendless, and the aged. The Church has, in fact, from her very position, taken that burden of responsibility upon her in ministering to the wants of the needy classes, which did she not undertake, such a work would, at great cost to the nation, have to be done by its agency, but if not in a mere official perfunctory manner, certainly with much less of that unselfish enthusiasm which ever characterizes the most successful works of the Church.

Even in a given parish, were it not for the help and support of the poor on the part of the Church, who can tell how much more heavily the rates would have to be burdened for the same objects? The poor could not be left to starve, the sick and the suffering could not be left unnursed and untended, so that the work done now in this respect would, were the Church disestablished and disendowed, have to be left to parish funds and parish officers.

## 23.

### *Would the Disestablishment of the Church secure Better Facilities for Men who seek to become Religious?*

Englishmen of all classes of society and of all shades of belief, and of no particular belief in matters pertaining to religion, have always been accustomed to a National Church; a Church whose doors are ever open, whose religious services

are always accessible, whose ministrations are always available, and whose sanctuaries are little short of religious homes to all who choose to make use of them. It matters not, for the purpose of our argument, that great numbers of the population do not make use of the services and ministrations as they might and as they ought, and that some do not make use of them at all. There the houses of God stand, studded throughout the country, accessible to all who will avail themselves of them. There are her organizations and ministrations as a religious network covering the land; and there are her ministers, whether to large or small congregations, ministering the word of life to the people, and prepared to give every religious, moral, and social help possible to all who seek to benefit by their ministry and agency.

Into what place of worship can an Englishman enter with that unqualified feeling of right and that sense of unrestrained freedom as he can enter into a sanctuary of the Established Church of England? In whatever parish he may be living or sojourning, he feels no sense of trespass or intrusion in entering the sanctuary of the National Church. He feels that he has a right there, that he has a portion in it, and an interest in it. Into what place of worship of a Dissenting body or of an unestablished Church could he enter in the same way, so perfectly free from restraint and embarrassment? There may, indeed, be many instances in which the parish church is not regarded nor used as it ought to be, in which the feeling of monopolizing semi-proprietorship on the part of a few supersedes the ancient and legal idea of it being the praying-place and the worshipping-place of the many. But this state of things is—in the face of enlightened public opinion, intelligent and large-hearted Churchmanship, and increasingly clearer views as to what the parish church really is to the parishioners—fast passing away.

Our argument, however, is based upon the rule, not the deprecated exceptions to it, and therefore we maintain that to take away from the people the national and legal parochial *home* for worship in every parish would be to deprive the

population of the country of immense facilities for such, and would greatly lessen the probabilities of their becoming religious men and women.

## 24.

### *What ought Churchmen to do in the Face of the Threatened Agitation for Disestablishment?*

What should Churchmen do? The duty of Churchmen is clear. As the opponents of the Church have made it a test question to vote for no candidate who will not pledge himself to disestablishment and disendowment, so they should in no case give their political support to any candidate who will not pledge himself by his voice and vote to do his utmost to retain the Church in her ancient position as the National Church of the country.

This is a simple, fair, and, in our opinion, religiously obligatory course for Churchmen under the circumstances to take. *They* have not raised the issue.[1] They deprecate it. It is thrust upon them by those who are ever counting upon their indifference as to the result of the contest. Surely there cannot be a question as to the duty of Churchmen, to whatever political party they may belong, not only to resolve, but to let their resolve be known to all concerned, and especially to candidates who seek their votes, that they are determined to act upon the principle of putting the interests of the Church and the religious interests of the nation before the interests of mere political party.

## 25.

### *The Political Duty of Churchmen.*

In the coming struggle between would-be disestablishers and disendowers of the Church and those who would retain her in her established and endowed position, it must be

[1] See the Archbishop of Canterbury's address to his Diocesan Conference, June 30th, 1885, in *Guardian*, July 1st.

clearly borne in mind—and there must be no mistake about it—that the conflict which will decide the issue will be one of a strictly political character. It is, we are aware, not a pleasant prospect for a very large proportion of devout Churchmen who wish to avoid all political strife and go on their religious way as they have been doing all their life, in doing Christ's and His Church's work, to have the interests of religion and of the Church of which they are devoted ministers and members, become subjects of a political contest.

We can well understand peaceful and deeply spiritually minded men saying within themselves, "If this is to be so, rather than enter into the contest let the opponents of the Church take all they want, and rob her of everything, but let us go on our own religious, non-political way, doing all the good we can, and leave the results with a Higher Power."

But we would put it to such men, Do you think honestly and candidly that this is what God would have you do? Is this the way that God has worked in the history of His Church and in the history of the world? Is this the way that God is working now? Are we all selfishly to seek to do our work for God and for the nation of which we are a part in our own particular manner when the very circumstances which are forced upon us call us out from our retirement and preferentially peaceful ways, when the greatest interests of the Church and the most important religious interests of the State and of society are at stake in the threatened abolition of a religious institution and its endowments, which are the sacred heritage of the English Church and people? Each Churchman must furnish an answer to these questions in his own mind and conscience. But what we have briefly to make clear is that, no matter to what extent the Church may be extending the erection of new sanctuaries and providing endowments for them; no matter how rapidly she may be extending her parochial and diocesan organizations for doing every kind of *good work* in the country, for all classes in the kingdom; no

matter how greatly she may be growing in numbers, strength, and influence in the land;—the question whether she is to remain the Established and Endowed Church of the kingdom will, after all, be decided in the polling-booths of the kingdom; and if Churchmen, having done their duty in every other department of their personal and Church life, neglect to do their duty in the polling booths, when the day of election comes, they will find, when too late, that the question whether the Church is to remain the Established and Endowed Church of the country is purely a political question, and as such will be decided by a purely political vote.

## PART X.

## *What is the Church doing in Return for and by the Help of her Endowments?*

### I.

### *What is the Voluntary Work which the Established Church has done and is doing?*

No case for the Church of England as an Established Church could be regarded as complete, even in outline, without an attempt to give some idea of the great work carried on at her own cost for the nation which the Church has accomplished, and in which she is now engaged.

First in order comes the work of church restoration and church extension. In this work from 1840 to 1874, as shown by Lord Hampton's parliamentary return (which return was correct so far as it went, but imperfect, as churches restored at a cost of less than £500 were not included):—Number of churches built, 1727; number restored, 7117; cost, £24,453,361. Cathedrals, 27; cost, £1,095,342. Total expenditure, £25,548,703.[1]

[1] See "Official Year-Book," 1885, p. 468.

Showing the rate at which church restoration and enlargement, as well as church building, have made progress since that time, there were restored and enlarged in ten years, from 1873 to 1882, 2283 churches, and there were built 850 new churches;[1] while in 1868 to 1880 there were constituted 838 new parishes, with a population of 2,612,541.[2]

As a sample of one year's work of church restoration and church extension in the different dioceses, we may take the voluntary expenditure of the Church in 1882.

The amounts thus expended in the various dioceses in 1882 were:—Canterbury, £24,709 7*s.* 3*d.*; York, £35,254 9*s.* 1*d.*; London, £221,287 8*s.* 9*d.*; Durham, £18,105 15*s.* 11*d.*; Winchester, £20,017 15*s.* 4*d.*; Bangor, £7575 8*s.* 8*d.*; Bath and Wells, £10,078 7*s.* 8*d.*; Carlisle, £17,531 10*s.* 1*d.*; Chester, £21,975 4*s.*; Chichester, £75,997 19*s.* 9*d.*; Ely, £15,549 11*s.* 2*d.*; Exeter, £41,143 16*s.* 10*d.*; Gloucester and Bristol, £44,813 4*s.* 5*d.*; Hereford, £8613 9*s.* 3*d.*; Lichfield, £63,232 5*s.* 2*d.*; Lincoln, £19,848 7*s.* 3*d.*; Liverpool, £20,805; Llandaff, £33,294 3*s.* 6*d.*; Manchester, £76,242 15*s.* 11*d.*; Newcastle, £5300; Norwich, £21,526 14*s.* 2*d.*; Oxford, £16,364 10*s.* 11*d.*; Peterborough, £18,128; Ripon, £46,291 13*s.* 3*d.*; Rochester, £58,959 7*s.* 4*d.*; St. Alban's, £49,474 18*s.* 1*d.*; St. Asaph, £4007 14*s.*; St. David's, £25,229 17*s.*; Salisbury, £8820 9*s.* 4*d.*; Truro, £12,884; Worcester, £18,540. Total, £1,061,602 4*s.* 1*d.*[3]

Taking the Diocese of Winchester alone as an illustration of continuous effort in church extension, it will be seen that in 1821 the total population of the diocese was approximately 670,000, and there were 491 churches. The number of clergy working in the diocese in 1845 was 647, of whom 234 were curates. In 1871 the population had increased to 1,546,668, the number of churches to 754, and the number of clergy to 1039, of whom 387 were curates. From the year 1820 to 1882, £2,883,268 was expended, and 309 new

[1] See "Official Year-Book," 1884, p. 556.
[2] Ibid., p. 561.
[3] Ibid., pp. 553, 554.

churches built, affording an increase of accommodation for 176,290.[1]

2.

*Mission Churches, etc.*

In addition to the great work which the Church has accomplished in restoring and enlarging old parish churches and cathedrals, etc., and in erecting thousands of new ones, she has erected 4717 buildings other than parish and district churches, used for the public worship of the Church of England, providing accommodation for 934,972 persons. In 1586 of these, Holy Baptism is administered; in 1740, Holy Communion is celebrated; and in 1404, both sacraments.[2]

3.

*Organizations for Church Extension.*

There are thirty-eight special diocesan funds for promoting church extension, giving grants in aid of church-building, mission-rooms, parsonage houses, endowment of new districts, stipends of mission clergy, schools, and diocesan inspection.[3]

The total amount of grants made by the various Diocesan Church Extension Societies, during the ten years ending 1883, for the building, enlargement, and restoration of churches, was £246,854.[4]

The total amount of grants made by the same societies during the same period, for the building of parsonage houses, was £25,328.[5]

[1] "Official Year-Book," 1885, pp. 18–21.
[2] Ibid., pp. 488, 489.
[3] Ibid., p. 509.
[4] Ibid., p. 503.
[5] Ibid., p. 504.

## 4.

### *Endowments.*

During the five years ending November 1, 1883, the Ecclesiastical Commissioners made 751 grants in augmentation of endowments or towards cost of parsonages, amounting to £173,955. These grants were made from Church property funds in the hands of the commissioners to meet benefactions locally raised amounting to no less than £748,298 2*s.* 6*d.* During the same period 883 grants were made to benefices or districts in respect of local claims, and of populations of 4000 and upwards, representing a capital sum of £275,867 7*s.* 1*d.*[1]

During the five years ending 1883, the Commissioners of Queen Anne's Bounty made 450 grants, amounting to £124,750, to meet benefactions of £156,921 3*s.* 6*d.* In this way £281,671 3*s.* 6*d.* was added to the endowments of the Church.[2]

## 5.

### *Elementary Education.*

From the year 1811 to 1870 Churchmen spent £15,149,938 in the building and maintenance of Church schools and training colleges, and since 1870 a sum of £12,977,209 was spent for similar purposes, thus giving a total for seventy-four years of £28,127,147.

The accommodation in Church schools for the year ending August 31, 1883, rose from 2,385,374 to 2,413,676, being an increase of 28,302. The average attendance rose from 1,533,408 to 1,562,507, being an increase of 24,099 for the year. During this year the Church was educating half as many again as were being educated in Board Schools, and Church-people contributed voluntarily during the year

[1] "Official Year-Book," 1885, pp. 463, 465.
[2] Ibid., pp. 466, 467.

nearly £580,000 towards the support of their schools, in addition to the large sum required for building and improvements.[1]

The incomes of the four principal Church education societies during 1883 amounted to £124,392.[2]

Amount spent by the Church, from voluntary funds, in elementary education during the year 1882 was as follows :—

| | £ | s. | d. |
|---|---|---|---|
| I. For building and enlargement— | | | |
| (*a*) Schools ... ... ... ... | 187,764 | 10 | 0 |
| (*b*) Training colleges ... ... ... | 4,400 | 0 | 0 |
| II. For maintenance, etc.— | | | |
| (*a*) Schools ... ... ... ... | 707,396 | 8 | 4 |
| (*b*) Training colleges ... ... ... | 14,042 | 5 | 1 |
| III. For diocesan inspection ... ... | 15,000 | 0 | 0 |
| Total ... ... | £928,603 | 3 | 5[3] |

## 6.

### *Home Mission Work.*

The total incomes of the chief Church of England Home Missionary Societies for the year 1883 amounted to £322,551.[4]

The number of parochial missions conducted by the mission preachers on the staff of the Church Parochial Mission Society has reached a total of 980, 272 of which took place during the year 1883–4. The number of mission preachers who, so far as other engagements permit, devote themselves to the work is 221.[5]

The following statement gives as accurately as possible the number of lay preachers in each diocese, acting under the licence or authority of the bishop :—Canterbury, 30; London, 157; Durham, 44; Bangor, 22; Carlisle, 5; Chichester, 9; Chester, 28; Exeter, 45; Ely, 35; Gloucester and Bristol, 30; Hereford, 7; Lichfield, 67; Lincoln, 25;

[1] "Official Year-Book," 1885, p. 153.
[2] Ibid., p. 518.
[3] Ibid., 1884, p. 576.
[4] Ibid., 1885, p. 507.
[5] Ibid., pp. 84, 88.

Liverpool, 14; Manchester, 45; Oxford, 11; Peterborough, 60; Ripon, 19; Rochester, 135; Salisbury, 24; Truro, 48; Sodor and Man, 1; total, 861.[1]

## 7.

### *Sisterhoods.*

"The work of the Sisterhoods of the Church embraces so wide a range that it seems impossible to give any description of it in detail." There are twenty-three principal orders, many of which have a large number of community houses in different parts of the country. Their work embraces education, nursing in hospitals and in private houses, penitentiary work, church embroidery, orphanages, convalescent homes, and almost every kind of general church and parish work.[2]

## 8.

### *Nursing Institutions.*

A return of some of the principal of these institutions, for 1883, gives the number of trained nurses as 187, and the amount of voluntary funds as £2258 11*s.* 2*d.*[3]

## 9.

### *Reformatory and Refuge Work.*

The Reformatory and Refuge Union was started in 1856, and now has 590 affiliated institutions, accommodating 40,000 inmates.[4]

There are also seventy-two ladies' associations for the care of friendless girls.

[1] "Official Year-Book," 1885, p. 93.
[2] Ibid., p. 144.
[3] Ibid., pp. 135–139.
[4] Ibid., p. 117.

10.

*Church Temperance Work.*

The Church of England Temperance Society has 2300 parochial branches at work, with a membership of 553,152. There are also special branches for the army, for seamen (32,440 enrolled in five years), for police-court rescue work, for railway *employés* (5470 members), a Women's Union with seventy-nine branches, and a Juvenile Union with 277,880 members. The income during the past year was £5126 14*s.* 1*d.*[1]

11.

*Hospital Sunday Funds.*

The total amount contributed to the Metropolitan Hospital Sunday Fund during the twelve years ending 1884, by the Church of England, was £248,466 14*s.* 10*d.*, as against £85,088 16*s.* contributed during the same period by all other religious bodies put together: while in the provinces the respective amounts contributed during the six years ending 1884 were:—Church of England, £154,526 1*s.* 7*d.*; other religious bodies, £86,432 11*s.* 6*d.*[2]

12.

*Foreign Missions.*

The contributions to the Church of England foreign missionary societies during 1883 amounted to £491,647.

13.

In the preceding section we have only given a rough and imperfect sketch of the work which the Church is doing by means of her general and diocesan organizations. The mani-

[1] "Official Year-Book," 1885, p. 116. [2] Ibid., pp. 514–517.

fold and various good works which, being strictly parochial, are carried on in almost every parish in the land for the good of all, but chiefly for the poorer classes, we have no means of enumerating here; but these involve a very large annual expenditure, and their beneficial results to those immediately interested in them, as well as to society in general and the well-being of the State, it would be difficult to estimate.

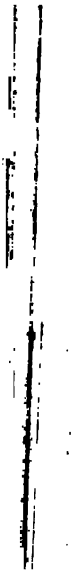
It is, however, enough to point out that were the Church dethroned from her present position in the land, and were her endowments confiscated, her responsibility and her ability for carrying on these good works would cease, and the people and the nation would suffer an irreparable loss, for which they would be unable to receive either substitution or compensation. Entirely apart from the direct religious work which the Church is thus doing, the moral, philanthropic, and social reformatory and ameliorative undertakings in which in almost every parish in the land she is successfully prosecuting, none but those whose eyes are blinded with prejudice can fail to see, and none but those whose minds are biassed to all that is good in her will be slow to admit.

The Church by her voluntary work, even in the mere matter of expenditure, gives back to the people far more than she receives from the tithe rent-charge and endowments, and were she by any reckless and spoliating Act of Parliament deprived of her property, society and the State would soon find out when, alas! too late, how lightly they had valued an institution whose irretrievable loss would cause a deplorable blank in every parish in the kingdom. In proof of the foregoing statement, we may mention that, taking one diocese as a sample, the Church expenditure from voluntary funds during the year 1882–1883, in the Diocese of Exeter, was £134,949 8*s.* 4½*d.*, which is greatly in excess of the tithe rent-charge of the whole diocese.[1]

Well might the *Times* say, in reviewing the work of the Church of England so far as it is enumerated in "The Official

[1] See "Official Year-Book," 1884, p. 576.

Year-Book of the Church of England"—"Whatever, therefore, may in future years result from the newly aroused disestablishment agitation, this much may be affirmed without fear of contradiction—no unprejudiced mind can rise from the careful study of the vast body of data put together in the book now under consideration, without generously acknowledging the almost infinite service rendered by the Church to the State, or without feeling very serious apprehensions for the social as well as the religious consequences of putting an end to an institution which can point, among other things, to thirteen centuries of unbroken history as one of its claims to being spared for future usefulness."



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